Purchasing Division
100 City Hall, 411 W. 1st Street
Duluth, MN 55802-1189
TEL. 218-730-5340 FAX: 218-730-5921
purchasing@duluthmn.gov

INVITATION TO BID
CURBSIDE TREE DEBRIS REMOVAL

BID NUMBER: **16-0497** **BID OPENING: FRIDAY, AUGUST 5, 2016 AT 2:00 PM**

PROJECT DESCRIPTION: Work includes the pickup, removal and transport of tree and brush debris related to the severe wind event that occurred in the Duluth area on July 21, 2016. This solicitation is for the curbside pickup only. Collected debris will be transported to designated collection sites, where it will be chipped and disposed under a separate contract to be let at a later date. Please refer to the attached Scope of Work for more information.

PRE-BID/WALK-THROUGH: A pre-bid meeting will not be held for this project. Prospective bidders are encouraged to refer to the attached area maps and conduct their own visual inspection and assessment.

QUESTIONS: Please submit any questions regarding this project via e-mail to purchasing@duluthmn.gov. Responses will be provided to all interested bidders as an addendum to this solicitation.

The selected contractor will be issued a construction contract (draft attached). Notice to Proceed will be issued as soon as possible, subject to receipt of necessary documentation.

Proposal forms, contract documents, plans and specifications are on file at the following offices: Duluth Builder's Exchange, Minnesota Builder's Exchange, BXWI-Fox Valley Plan Room, and the Blue Book Building and Construction Network.

INSTRUCTIONS TO BIDDERS

All bids must be complete, signed, and transmitted in a sealed envelope plainly marked with the bid number, project title, and bid opening date.

Bids may be mailed to the Purchasing Division, City Hall, 411 West 1st Street, Room 100, Duluth, MN 55802 or dropped off in person at the same address.

Bids must be received in Purchasing before 2:00 PM local time on the bid opening date specified on the Invitation for Bids. The City Purchasing Agent or her designee will conduct a public bid opening in Room 100 immediately following receipt of the bids. Bid results will be posted online at http://www.duluthmn.gov/purchasing/bids-request-for-proposals/ once all bids have been reviewed.

No alternatives to the specification will be considered unless specifically requested. Erasures or other changes to the bid must be initialed and dated, however no special conditions shall be made or included in the bid form by the bidder.

The City of Duluth reserves the right to waive informalities and to reject any and all bids. Do not include sales tax in the unit price. Price may not be the only consideration for bid award. Bids must be firm for a minimum of 30 days.

The following documents must be submitted with your bid:

1. **Bid Bond** - A certified check or bank draft, payable to the order of the City of Duluth, negotiable U.S. Government Bonds (at par value), or a satisfactory bid bond executed by the bidder and acceptable surety, in an amount equal to five per cent (5%) of the total bid. Bids may be withdrawn without forfeiture of surety

if the request is submitted by the Bidder and received at the Purchasing Office in writing or by e-mail prior to the scheduled bid opening.

2. **Acknowledgment of Addendum –** any changes to this solicitation will be announced via Addendum. Bidders must indicate that they have reviewed any addendum(s) by initialing and dating on the bid form where indicated. Failure to acknowledge addendum(s) may result in your bid being deemed non-responsive.

3. **Responsible Contractor** - No construction contract in excess of $50,000 will be awarded unless the Bidder is a "responsible contractor" as defined in Minnesota Statute §16C.285, subdivision 3. All Bidders submitting a proposal for this project must verify that they meet the minimum criteria specified in the statute by submitting a Responsible Contractor Verification and Certification of Compliance form (attached) with their bid. The owner or officer of the company must sign the form under oath verifying compliance with each of the minimum criteria. Making a false statement under oath will render the Bidder or subcontractor that makes the false statement ineligible to be awarded a construction project and may result in termination of a contract awarded to a Bidder or subcontractor that submits a false statement. Bidders must obtain verification of compliance from all subcontractors. Bidders must submit signed copies of verifications and certifications of compliance from subcontractors at the City's request.

Please note that the following requirements also apply to this project, and any additional required documents must be submitted prior to award/contract execution. Submitting these documents with your bid will assist in expediting the process.

1. **Insurance** – Contractor must provide proof of Public Liability and Automobile Liability Insurance with limits not less than $1,500,000 Single Limit prior to the commencement of work. The City of Duluth must be named as an additional insured. Please refer to the draft Contract, Section 7.

2. **Affidavit of Non-Collusion** – The successful bidder shall be required to execute the attached affidavit stating that he/she has not entered into a collusive agreement with any other person, firm, or corporation in regard to any bid submitted.

3. **Performance & Payment Bonds** – The awarded contractor will be required to submit performance and payments bonds in the full amount of the project cost prior to award.

4. **Affirmative Action/EEO** - The contractor must take affirmative action to ensure that the employees and applicants for employment are not discriminated against because of their race, color, creed, sex or national origin, and must meet the affirmative action goals. Contractors are encouraged to subcontract with Disadvantaged Business Enterprises (DBEs) when possible. A current list of certified DBEs is available on the Minnesota Unified Certification website at http://mnucp.metc.state.mn.us . Contractor will comply with all applicable Equal Employment Opportunity laws and regulations. Awarded contractor will submit the attached Equal Employment Opportunity (EEO) Affirmative Action Policy Statement & Compliance Certificate.

5. **Project Labor Agreement (PLA)** - A PLA will be required for any bid that is over or could virtually go over $150,000. A copy of the City standard PLA is included in this package.

6. **Out of State Contractor** - Unless a State of Minnesota Certificate of Exemption is provided, any out-of-state bidder receiving a bid award will have 8% retained from invoice payments on any contracts over $50,000. Submit a signed copy of the signed exemption form when submitting Payment and Performance Bonds. This form may be found at the following web address: http://www.revenue.state.mn.us/Forms_and_Instructions/sde.pdf

7. **Prevailing Wage** - Not less than the minimum salaries and prevailing wages as set forth in the contract documents must be paid on this project.

The City of Duluth is an Equal Opportunity Employer. Contractor shall comply with all applicable Equal Employment Opportunity laws and regulations.

CITY OF DULUTH

Amanda Ashbach
Purchasing Agent

BID FORM

BID # 16-0497
CURBSIDE TREE DEBRIS REMOVAL

ITEM	PRICE PER CU/YD
Price per cubic yard to remover tree debris per the attached scope of work. Unit price must include all costs, including mob/demob.	$

_____
TOTAL PRICE IN WRITING

ACKNOWLEDGMENT OF ADDENDA

ADDENDUM #	INITIAL/DATE
ADDENDUM #	INITIAL/DATE
ADDENDUM #	INITIAL/DATE
ADDENDUM #	INITIAL/DATE

Signature _____ Date _____

Name/Title _____

Company Name_____

Address _____

City, State, Zip _____

Tel._____ E-Mail _____

If your organization is certified as a Disadvantaged Business Enterprise, please check here: ☐

SCOPE OF WORK

UNIT PRICE CONTRACT FOR TREE DEBRIS REMOVAL

1.0 GENERAL

1.1 This scope of work shall consist of the clean-up and removal of vegetative and woody debris as defined herein within the boundaries of the City of Duluth, Minnesota, which was caused by the severe wind event that occurred in the Duluth area on July 21, 2016.

1.2 The primary purpose of this scope of work is to restore the public areas of the city to a normal condition in the shortest amount of time. Each bidder must understand and agree that debris removal in the most expeditious manner possible is of the utmost importance and the successful bidder will make every effort to complete all requirements of the awarded contract in the shortest time possible.

1.3 This debris removal will be limited to the public rights-of-way and other public properties within the City. Payment will be per cubic yard of debris removed and transported.

1.4 Prevailing wages must be paid on this project. A Project Labor Agreement will be required for any contract over $150,000.

1.5 Proof of insurance meeting the City's requirements, as well as performance and payment bonds in the full amount of the contract will be required from the successful bidder.

1.6 The City reserves the right to consider the bidder's qualifications, experience directly relating to debris clean-up and removal, and equipment inventory, in addition to the unit price. In addition, the City may make such investigations as it deems necessary to determine the ability of the bidder to perform the work, and the bidder shall furnish to the City all such information and data for this purpose as the City may request.

2.0 SERVICES

2.1 The Contractor shall provide for tree/brush debris pickup and removal from the areas outlined on the attached maps (the "Work").

2.2 The Contractor will transport the tree/brush debris to the Morningside pit on Jean Duluth Road. Debris will be ground up, chipped, or mulched at this site under separate contract to be bid at a later date. If additional disposal capacity is needed, the City will direct the Contractor to transport

debris to an alternate location at the City of Duluth Tree Farm located on Riley Road.

2.3 The total amount of tree/brush debris to be removed under this scope of work is ***estimated*** to be 150,000 cubic yards. The City reserves the right to increase or decrease the quantity by as much as **50%.**

2.4 The Work shall consist of examining tree/brush debris which has been stacked adjacent to City streets to determine whether or not the debris is eligible for pick-up, removing any and all "eligible" tree/brush debris (see section 3.0 for a definition of eligible debris) and hauling the debris to the designated dump site. Equipment may not be operated on lawns where grass may be damaged or the surface rutted. Debris may be pulled onto the pavement and pushed to make piles and loaded, or loaded directly with grapple type apparatus. Sufficient laborers shall be provided by Contractor to pick up any and all remaining limbs not picked up by equipment.

Ineligible debris will not be loaded, hauled, or dumped under this contract.

2.5 Contractor shall remove all eligible tree/brush debris placed within the City right-of-way by adjacent landowners within the area designated by the City. This includes any and all un-stacked limbs greater than 3" in diameter. The Contractor shall make as many passes through the designated area as required by the City. The Contractor shall notify the Project Manager once work areas are cleared and prior to moving to another work area. The City reserves the right to specify any eligible tree/brush debris within a city street which should not be removed, or which should be removed at a later time. ***The Contractor shall not enter onto private property during the performance of this contract.***

2.6 The Contractor shall conduct the Work so as not to interfere with any disaster response and recovery activities of other governmental entities or agencies, or of any public utilities.

2.7 The City reserves the right to inspect pickup and disposal site(s), to verify quantities, and to review the Contractor's operations on this project at any time.

2.8 All work shall be accomplished in a safe manner and in compliance with all applicable laws.

3.0 ELIGIBLE DEBRIS

3.1 Only vegetative, woody debris (trees, tree limbs, branches, etc.) related to the July 21, 2016 severe wind event will be considered “eligible debris” that falls within the scope of this contract. Under no circumstances is the Contractor permitted to pick up or transport any household waste, hazardous material, or any other debris for reimbursement under this contract.

4.0 PERFORMANCE SHEDULE

4.1 The Contractor shall commence performance no later than 24 hours after the issuance of the Notice to Proceed.

4.2 The Contractor shall provide a work plan before the Notice to Proceed is issued, showing where operations will begin and the general methodology which will be used to complete the tree/debris removal. The plan will be updated daily and provided to the City’s representative.

4.3 The Contractor shall complete all work under this contract in the most expeditious manner possible, with all Work completed within thirty (30) days from the issuance of a Notice to Proceed. Any extension to this deadline must be in the form of a written change order initiated by the City and duly executed by both parties.

5.0 EQUIPMENT

5.1 All trucks and other equipment must be in compliance with all applicable Federal, State, and local rules and regulations, including all DOT, MNDOT and safety regulations. All trucks used to haul tree/brush debris must be capable of rapidly dumping its load without the assistance of other equipment; be equipped with a tailgate that will effectively contain the tree/brush debris during transport and permit the truck to be filled to capacity. All trucks will be measured and marked for its load capacity. Sideboards or other extensions to the bed are allowable provided they meet all applicable rules and regulations, cover the front and both sides, and are constructed in a manner to withstand severe operating conditions. The City representative must approve all requests for exceptions. Equipment shall be inspected by the Contractor and the City prior to its use and periodically throughout the operation.

5.2 Contractor is responsible for determining and complying with applicable requirements for securing loads while in transit. At a minimum, Contractor shall assure that all loads are transported without threat of harm to the general public, private property and public infrastructure.

5.3 Prior to commencing tree/brush debris removal operations, the Contractor shall present to the City representative a listing of all trucks or trailers that

will be used for hauling tree/brush debris, for the purpose of determining hauling capacity. The hauling capacity will be based on the interior dimensions of the truck's metal dump bed. Each truck and/or trailers hauling capacity, in cubic yards, will be recorded and marked on each truck or trailer with permanent markings. Each truck or trailer will also be numbered for identification with a permanent marking.

5.4 Trucks or equipment, which are designated for use under this contract, shall not be used for any other work during the working hours of this contract. The Contractor shall not solicit work from private citizens or others to be performed in the designated work area during the period of this contract. Any personnel and equipment designated by Contractor to be utilized in the performance of the Work shall not be utilized elsewhere or released in any way, fashion or form for the duration of the Contract unless approved in writing by the City.

5.5 Equipment used under this contract shall be rubber tired and sized properly to fit loading conditions. The Owner's representative must approve excessive size equipment and non-rubber tired equipment.

6.0 REPORTING

6.1 The Contractor will be required to maintain an accurate record of all Work performed using the attached Contractor Debris, Labor and Equipment Tracker. The tracker includes the following information:

- Contractor's Name
- Date
- Location of Debris Removal
- Designated Disposal Site Used
- Cubic Yards of Debris Removed per Location and Date

7.0 OTHER CONSIDERATIONS

7.1 The Contractor shall supervise and direct the Work, using skillful labor and proper equipment for all tasks. Safety of the Contractor's personnel and equipment is the responsibility of the Contractor. Additionally, the Contractor shall pay for all materials, personnel, taxes, and fees necessary to perform under the terms of this contract.

7.2 By submitting a bid, Contractor represents and warrants that Contractor and all personnel to be provided for the project have sufficient training and experience to perform the duties described in this Scope of Work. The Contractor must be duly licensed in accordance with the state's statutory requirements to perform the Work. The Contractor shall be responsible for obtaining any permits necessary to complete the Work.

7.3 The Contractor shall be responsible for taking corrective action in response to any notices of violations issued as a result of the Contractors or any subcontractor's actions or operations during the performance of this contract. Corrections for any such violations shall be at no additional cost to the City.

7.4 The Contractor shall be responsible for control of pedestrian and vehicular traffic in the work area. The Contractor shall provide all flag persons, signs, equipment, and other devices necessary to meet Federal, State, and local requirements. The traffic control personnel and equipment shall be in addition to the personnel and equipment required in other parts of this contract.

7.5 Contractor will be responsible for repairing any structures or facilities that are damaged during the project, including but not limited to signs, light poles, gas meters, fire hydrants, and so forth.

7.6 Contractor will not close any thoroughfare streets without prior approval of the Project Manager. No thoroughfare streets shall be closed between the hours of 7:00 AM to 8:30 AM and between 4:00 PM to 6:00 PM.

7.7 Contractor must operate seven days a week during all daylight hours or as otherwise directed by the Project Manager. Removal shall be restricted to between the hours from dawn to dusk.

7.8 Contractor will make every effort to utilize and employ local sub-contractors, equipment rental, supplies and other locally available resources.

8.0 MEASUREMENT

8.1 Measurement for tree/brush debris removed will be by the cubic yard as predetermined through truck bed measurement. Debris shall be firmed up in the bed by tamping with loading devices such as buckets or grapples. Trucks with less than full capacities will not be counted for payment unless approved by the Project Manager and an adjustment made in the quantity.

9.0 PAYMENT

9.1 Payment for mobilization and demobilization must be included in the unit price.

9.2 Payment for work completed may be invoiced on a weekly basis. Invoices will be based on verified quantities from the Contractor Debris, Labor and Equipment Tracker. City standard payment terms are net 30.

9.3 All payments made to the Contractor shall be subject to a 5% retainage which will be held ninety (90) days after completion of all contract work to insure the timely completion of the project and/or any undiscovered damage to public or private property.

10.0 OTHER CONTRACTS / SUBCONTRACTORS

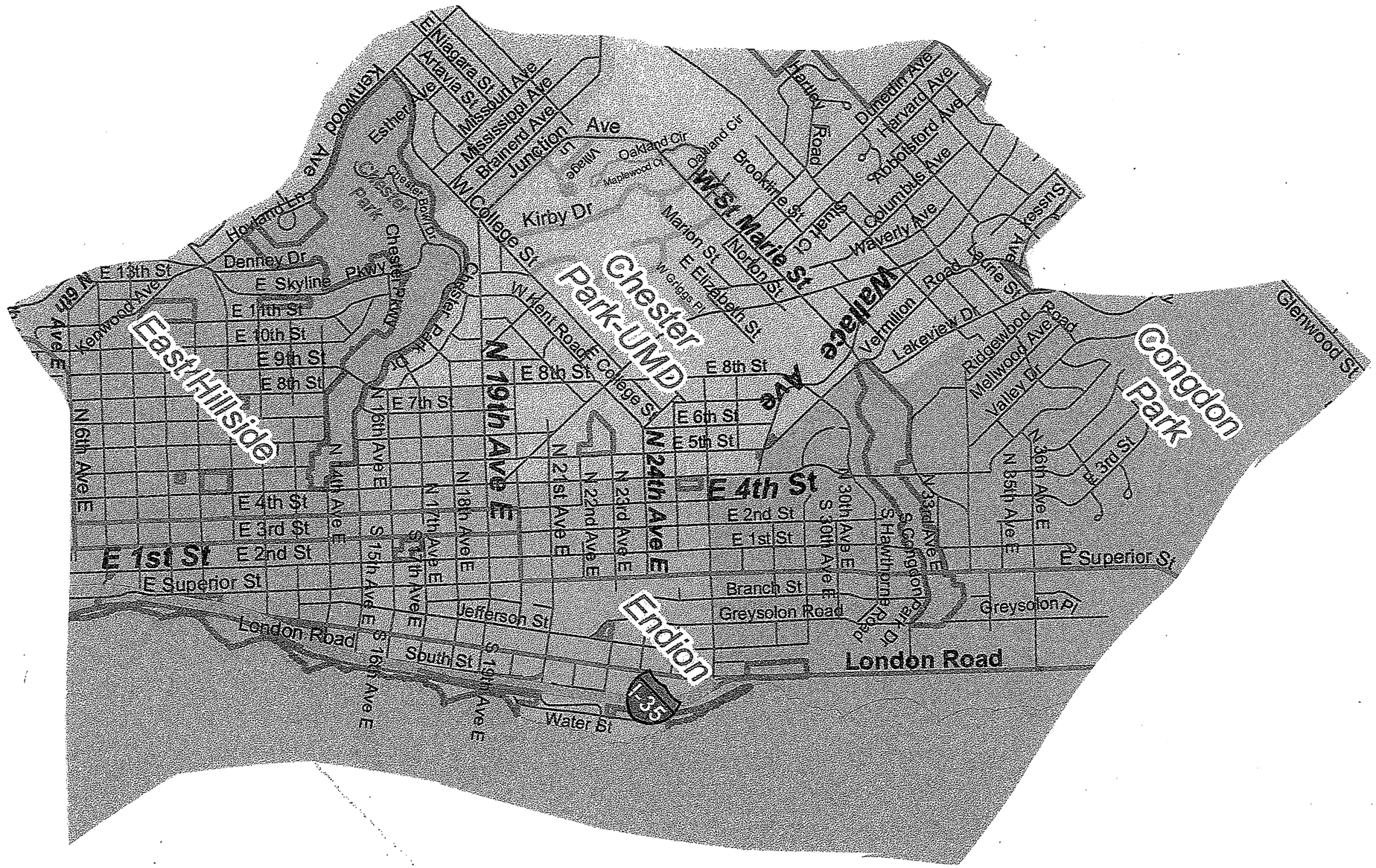
10.1 The City reserves right to issue other contracts or direct other contractors to work within the area included in this contract.

10.2 Prior to contract award, the contractor shall submit a list of all subcontractors to the City.

City of Duluth, MN
July 21, 2016 Storm Damage Documentation
Contractor Labor and Equipment Tracker **Name of Contractor** _____

Date	Location of Debris Removal (Area and Street)	Designated Disposal Site Used	Type of Debris Collected	Cubic Yards of Debris
			Woody Vegetation	
			Woody Vegetation	
			Woody Vegetation	
			Woody Vegetation	
			Woody Vegetation	
			Woody Vegetation	
			Woody Vegetation	
			Woody Vegetation	
			Woody Vegetation	
			Woody Vegetation	
			Woody Vegetation	
			Woody Vegetation	
			Woody Vegetation	

Martin Rd
Martin Road
Ridgeview
Sleepier Rd
Sleepier Road
Haines Road
Grindeh Dr
Ventura Ave
Venture Cir
Almort Rd
Almark Blvd
Enterprise
Krueger Road
Krueger Junction
Prosperity Rd
Endeavor Dr
Swan Lake Road
Swan Lake Rd
Beede Road
Private Dr
Sundby Road
Airbase Rd
Airbase Road
W Arrowhead Rd
Miller Trunk Hwy
Miller Trunk Hwy
Duluth Heights
Airport Rd
Airport Maintenance Rd
Airport Access Road
Airport Terminal Dr
Airport Terminal Rd
Cirrus Dr
Bitterwurzel Dr
Elmwood
Jamilee Dr
Martinez Blvd
Loberg Ave
Market St
Lindgren Rd
Westberg Rd
Timber Ridge Ln
Woodridge Dr
Terrace Cir
Adrian Ln
Frontier View
Maple Grove Road
Mall Dr
Mall Drive
Mall Access Roads
Mall Entrance
Mall Ring Road
Mall Parking Lot
Mall Service Road
Mall Shadowed Dr
Mall Frontage Rd
Mall Frontage Dr
Miller Cir
Sundby Road
Holland Ave
Cedar Ave
Page St
Yosemite Ave
Redbud St
Timberline Lane
W Morgan St
Pondelosa Ave
Elm Ave
Terrace St
W Ideal St
N Robin Ave
Ebony Ave
Maple
Band Dr
W Marble St
W Rainbow St
Sika St
Crystal Dr
Swan Lake Pl
Sailor Ave
N Bessemo Ave
N Arlington Ave
Public
Elm Ridge Cir
Hickory St
E Willow St
E Gilead St
E Locust St
E Myrtle St
E Palm St
E Orange St
W 15th St
E 14th St
Central High Dr
S Blackman Ave
E Central Entrance
Boulder Dr
Bayliss St
Windwood Dr
E Upham Road
N Blackman Ave
Lutkin St
W Myrtle St
W Palm St
W Orange St
W Lemon St
W Central Entrance
W Locust St
W Mulberry St
N Mulberry St
Arrington Athletic Complex
Quince St
Dale Valley Rd
Mallard Lane
Green Blvd
Cedar Ave
Fountain Gate
S Arlington Ave
Observation Road
Enger Municipal Golf Course
Decker Road
Private Dr
Bylund Road
Anderson Road
Anderson Rd


East Hillside
Chester Park-UMD
Congdon Park
Endion
Wallace
W St Marie St
N 19th Ave E
N 24th Ave E
E 4th St
E 1st St
London Road
E Superior St
E 2nd St
E 3rd St
E 4th St
E 5th St
E 6th St
E 7th St
E 8th St
E 9th St
E 10th St
E 11th St
E 13th St
E Skyline Pkwy
Denney Dr
Howland Ln
Kenwood Ave
Kenwood Ave E
N 6th Ave E
N 14th Ave E
N 15th Ave E
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S 19th Ave E
S 30th Ave E
Esther Ave
Chester Park
Chester Bowl Dr
Chester Bowl Pkwy
Niagara St
Arlava St
Mississippi Ave
Brainerd Ave
Junction Ave
Kirby Dr
W College St
E College St
W Kent Road
Oakland Cir
Maplewood Ct
Marion St
E Elizabeth St
W Grigg Pl
Norton St
Brookline St
Stuart Ct
Harper Road
Dunedin Ave
Harvard Ave
Hotpolsford Ave
Columbus Ave
Waverly Ave
Vermilion Road
Lakeview Dr
Ridgewood Road
Mellwood Ave
Valley Dr
Glenwood St
Kessler Ave
Jefferson St
Superior St
Branch St
Greysolon Road
Hawthorne Rd
S Congdon Blvd
Water St
I-35

Trinity Road
Lake Superior College Dr
Springvale Road
Springvale Ct
Hillcrest Dr
Catskill St
Florence Ave
Trinity Ct
Chamberlain Ave
W 24th St
W 23rd St
Piedmont Ave
Ensign St
Hagberg St
Harvey St
Morris Thomas Road
Key Ave
Adirondack St
Geshart St
Tyrol St
W 26th Ave W
Hutchinson Road
W 28th Ave W
W 15th St
Chamberlain Ave
Hanbold Ln
Rivenness Drive
Asbury Road
Parkwood
Portage Drive
Palisade Drive
Silver Fox Cir
Palisade Dr
Florine St
Celia St
Providence Road
Peace Dr
Portland Rd
Johnson Rd
Alexander Rd
Carlson Rd
Copley Rd
Okerstrom Rd
Arthur Ln
Leslie Creek Ln
Piedmont Heights

AFFIDAVIT AND INFORMATION REQUIRED OF BIDDERS

Affidavit of Non-Collusion:

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

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

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

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

4) That a family relationship between a City of Duluth employee and bidder/proposer are in non-collusion; and

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

Signed: _____

Firm Name: _____

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

NOTARY PUBLIC _____

My commission expires: _____

Bidder's Federal Identification Number _____

EQUAL EMPLOYMENT OPPORTUNITY EEO AFFIRMATIVE ACTION
POLICY STATEMENT & COMPLIANCE CERTIFICATE

TO: City of Duluth, MN PROJECT NUMBER & DESCRIPTION _____

_____

FROM: _____

_____
(Vendor's name, address, telephone number)

A) Employment: It is the policy of the above named FIRM to afford equal opportunity for employment to all individuals regardless of race, color, creed, religion, national origin, ancestry, age, sex, marital status, status with respect to public assistance and/or disability. The FIRM will take affirmative action to ensure that we will: (1) recruit, hire, and promote all job classifications without regard to race, color, creed, religion, national origin, ancestry, age, sex, marital status, status with respect to public assistance, and/or disability, except where sex is a bona fide occupational qualification; (2) base decisions on employment so as to further the principle of equal employment opportunity; (3) ensure that promotion decisions are in accord with the principles of equal employment opportunity by imposing only valid requirements for promotional opportunities; (4) ensure that all personnel actions such as compensation, benefits, transfers, layoffs, return from layoff, FIRM sponsored training, education tuition assistance, social and recreational programs will be administered without regard to race, color, creed, religion, national origin, ancestry, age, sex, marital status, status with respect to public assistance, and/or disability. The FIRM also intends full compliance with Veteran affirmative action requirements. Additionally, minority and female employees shall be encouraged to participate in all FIRM activities and refer applicants.

I have designated (name) _____to direct the establishment of and to monitor the implementation of personnel procedures to guide the FIRM's affirmative action program. Where PROJECTS exceed $500,000, this official shall also serve as the liaison officer that administers the FIRM's "Minority Business Enterprise Program." This official is charged with designing and implementing audit and reporting systems that will keep management informed on a monthly basis of the status of the equal opportunity area.

Supervisors have been made to understand that their work performance is being evaluated on the basis of their equal opportunity efforts and results, as well as other criteria. It shall be the responsibility of the FIRM and its supervisors to take actions to prevent harassment of employees placed through affirmative action efforts.

B) Reports: Unless exempted by law and regulation, the FIRM shall make available and file those reports related to equal opportunity as may be required by the City of Duluth and State and Federal compliance agencies. Requirements and Reports are defined in 41CFR60 "Compliance Responsibility for Equal Opportunity" published by the U. S.Department of Labor which is incorporated herein by reference. Additional requirements are defined in various State and Federal Civil Rights Legislation and Rules promulgated thereunder.

C) Nonsegregated Facilities: The FIRM certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The FIRM certifies that it will not maintain or provide for its employees any segregated facilities at any of its establishments and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. The FIRM agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this certificate. As used in this Certification, the term "segregated

facilities" means any waiting rooms, work area, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation for entertainment area, transportation, and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise.

D) Affirmative Action Compliance Program: Unless exempted by regulation and law, the FIRM–if the FIRM has 50 or more employees and if the value of current contracts with the City of Duluth exceeds $50,000–shall prepare and maintain a written affirmative action compliance program that meets the requirement as set forth in 41CFR60.

E) Non-Compliance: The FIRM certifies that it is not currently in receipt of any outstanding letters of deficiencies, show cause, probable cause, or other such notification of non-compliance with EEO Laws and Regulations.

F) Employment Goals - "Construction" Projects: It shall be the goal of the FIRM if the PROJECT is of a construction nature that in all on-site employment generated that no less than 3% of the on-site workforce will be minority employees and that no less than 7% of the on-site workforce will be female employees. Further, it is the goal of the FIRM if the PROJECT is of a construction nature that in all on-site employment generated that no less than 3% of the work hours generated shall be worked by minority employees and that no less than 7% of the work hours generated shall be worked by female employees.

G) Subcontractors: The FIRM will for all its PROJECT subcontractors regardless of tier (unless exempted by law and regulation) that received in excess of $2,500 require that: (1) the subcontractor shall execute an "EEO Statement and Certification" similar in nature to this "Statement and Certification", (2) said documentation to be maintained on file with the FIRM or subcontractor as may be appropriate.

Executed this _____ day of _____, 20__ by:

_____

Printed name and title

_____

Signature

NOTE: In addition to the various remedies prescribed for violation of Equal Opportunity Laws, the penalty for false statements is prescribed in 18 U.S.C. 1001.

ATTACHMENT A
PRIME CONTRACTOR RESPONSE

RESPONSIBLE CONTRACTOR VERIFICATION AND CERTIFICATION OF COMPLIANCE

STATE PROJECT NUMBER: _____

This form includes changes by statutory references from the Laws of Minnesota 2015, chapter 64, sections 1-9. This form must be submitted with the response to this solicitation. A response received without this form, will be rejected.

Minn. Stat. § 16C.285, Subd. 7. **IMPLEMENTATION.** … any prime contractor or subcontractor or motor carrier that does not meet the minimum criteria in subdivision 3 or fails to verify that it meets those criteria is not a responsible contractor and is not eligible to be awarded a construction contract for the project or to perform work on the project…	
Minn. Stat. § 16C.285, Subd. 3. **RESPONSIBLE CONTRACTOR, MINIMUM CRITERIA**. "Responsible contractor" means a contractor that conforms to the responsibility requirements in the solicitation document for its portion of the work on the project and verifies that it meets the following minimum criteria:	
(1)	The Contractor: (i) is in compliance with workers' compensation and unemployment insurance requirements; (ii) is in compliance with Department of Revenue and Department of Employment and Economic Development registration requirements if it has employees; (iii) has a valid federal tax identification number or a valid Social Security number if an individual; and (iv) has filed a certificate of authority to transact business in Minnesota with the Secretary of State if a foreign corporation or cooperative.
(2)	The contractor or related entity is in compliance with and, during the three-year period before submitting the verification, has not violated section 177.24, 177.25, 177.41 to 177.44, 181.13, 181.14, or 181.722, and has not violated United States Code, title 29, sections 201 to 219, or United States Code, title 40, sections 3141 to 3148. For purposes of this clause, a violation occurs when a contractor or related entity: (i) repeatedly fails to pay statutorily required wages or penalties on one or more separate projects for a total underpayment of $25,000 or more within the three-year period, provided that a failure to pay is “repeated” only if it involves two or more separate and distinct occurrences of underpayment during the three-year period; (ii) has been issued an order to comply by the commissioner of Labor and Industry that has become final; (iii) has been issued at least two determination letters within the three-year period by the Department of Transportation finding an underpayment by the contractor or related entity to its own employees; (iv) has been found by the commissioner of Labor and Industry to have repeatedly or willfully violated any of the sections referenced in this clause pursuant to section 177.27; (v) has been issued a ruling or findings of underpayment by the administrator of the Wage and Hour Division of the United States Department of Labor that have become final or have been upheld by an administrative law judge or the Administrative Review Board; or (vi) has been found liable for underpayment of wages or penalties or misrepresenting a construction worker as an independent contractor in an action brought in a court having jurisdiction. Provided that, if the contractor or related entity contests a determination of underpayment by the Department of Transportation in a contested case proceeding, a violation does not occur until the contested case proceeding has concluded with a determination that the contractor or related entity underpaid wages or penalties;*

(3)	The contractor or related entity is in compliance with and, during the three-year period before submitting the verification, has not violated section 181.723 or chapter 326B. For purposes of this clause, a violation occurs when a contractor or related entity has been issued a final administrative or licensing order;*
(4)	The contractor or related entity has not, more than twice during the three-year period before submitting the verification, had a certificate of compliance under section 363A.36 revoked or suspended based on the provisions of section 363A.36, with the revocation or suspension becoming final because it was upheld by the Office of Administrative Hearings or was not appealed to the office;*
(5)	The contractor or related entity has not received a final determination assessing a monetary sanction from the Department of Administration or Transportation for failure to meet targeted group business, disadvantaged business enterprise, or veteran-owned business goals, due to a lack of good faith effort, more than once during the three-year period before submitting the verification;*
	* Any violations, suspensions, revocations, or sanctions, as defined in clauses (2) to (5), occurring prior to July 1, 2014, shall not be considered in determining whether a contractor or related entity meets the minimum criteria.
(6)	The contractor or related entity is not currently suspended or debarred by the federal government or the state of Minnesota or any of its departments, commissions, agencies, or political subdivisions that have authority to debar a contractor; and
(7)	All subcontractors and motor carriers that the contractor intends to use to perform project work have verified to the contractor through a signed statement under oath by an owner or officer that they meet the minimum criteria listed in clauses (1) to (6).

Minn. Stat. § 16C.285, Subd. 5. **SUBCONTRACTOR VERIFICATION**.

A prime contractor or subcontractor shall include in its verification of compliance under subdivision 4 a list of all of its first-tier subcontractors that it intends to retain for work on the project. Prior to execution of a construction contract, and as a condition precedent to the execution of a construction contract, the apparent successful prime contractor shall submit to the contracting authority a supplemental verification under oath confirming compliance with subdivision 3, clause (7). Each contractor or subcontractor shall obtain from all subcontractors with which it will have a direct contractual relationship a signed statement under oath by an owner or officer verifying that they meet all of the minimum criteria in subdivision 3 prior to execution of a construction contract with each subcontractor.

If a prime contractor or any subcontractor retains additional subcontractors on the project after submitting its verification of compliance, the prime contractor or subcontractor shall obtain verifications of compliance from each additional subcontractor with which it has a direct contractual relationship and shall submit a supplemental verification confirming compliance with subdivision 3, clause (7), within 14 days of retaining the additional subcontractors.

A prime contractor shall submit to the contracting authority upon request copies of the signed verifications of compliance from all subcontractors of any tier pursuant to subdivision 3, clause (7). A prime contractor and subcontractors shall not be responsible for the false statements of any subcontractor with which they do not have a direct contractual relationship. A prime contractor and subcontractors shall be responsible for false statements by their first-tier subcontractors with which they have a direct contractual relationship only if they accept the verification of compliance with actual knowledge that it contains a false statement.

Subd. 5a. **Motor carrier verification.** A prime contractor or subcontractor shall obtain annually from all motor carriers with which it will have a direct contractual relationship a signed statement under oath by an owner or officer verifying that they meet all of the minimum criteria in subdivision 3 prior to execution of a construction contract with each motor carrier. A prime contractor or subcontractor shall require each such motor carrier to provide it with immediate written notification in the event that the motor carrier no longer meets one or more of the minimum criteria in subdivision 3 after submitting its annual verification. A motor carrier shall be ineligible to perform work on a project covered by this section if it does not meet all the minimum criteria in subdivision 3. Upon request, a prime contractor or subcontractor shall submit to the contracting authority the signed verifications of compliance from all motor carriers providing for-hire transportation of materials, equipment, or supplies for a project.

Minn. Stat. § 16C.285, Subd. 4. **VERIFICATION OF COMPLIANCE.**
A contractor responding to a solicitation document of a contracting authority shall submit to the contracting authority a signed statement under oath by an owner or officer verifying compliance with each of the minimum criteria in subdivision 3, with the exception of clause (7), at the time that it responds to the solicitation document. A contracting authority may accept a signed statement under oath as sufficient to demonstrate that a contractor is a responsible contractor and shall not be held liable for awarding a contract in reasonable reliance on that statement. A prime contractor, subcontractor, or motor carrier that fails to verify compliance with any one of the required minimum criteria or makes a false statement under oath in a verification of compliance shall be ineligible to be awarded a construction contract on the project for which the verification was submitted. A false statement under oath verifying compliance with any of the minimum criteria may result in termination of a construction contract that has already been awarded to a prime contractor or subcontractor or motor carrier that submits a false statement. A contracting authority shall not be liable for declining to award a contract or terminating a contract based on a reasonable determination that the contractor failed to verify compliance with the minimum criteria or falsely stated that it meets the minimum criteria. A verification of compliance need not be notarized. An electronic verification of compliance made and submitted as part of an electronic bid shall be an acceptable verification of compliance under this section provided that it contains an electronic signature as defined in section 325L.02, paragraph (h).

CERTIFICATION	
By signing this document I certify that I am an owner or officer of the company, and I swear under oath that: **1) My company meets each of the Minimum Criteria to be a responsible contractor as defined herein and is in compliance with Minn. Stat. § 16C.285, and** **2) if my company is awarded a contract, I will submit Attachment A-1 prior to contract execution, and** **3) if my company is awarded a contract, I will also submit Attachment A-2 as required.**	
Authorized Signature of Owner or Officer:	**Printed Name:**
Title:	**Date:**
Company Name:	

NOTE: Minn. Stat. § 16C.285, Subd. 2, (c) If only one prime contractor responds to a solicitation document, a contracting authority may award a construction contract to the responding prime contractor even if the minimum criteria in subdivision 3 are not met.

ATTACHMENT A-1

FIRST-TIER SUBCONTRACTORS LIST

SUBMIT PRIOR TO EXECUTION OF A CONSTRUCTION CONTRACT

STATE PROJECT NUMBER: _____

Minn. Stat. § 16C.285, Subd. 5. A prime contractor or subcontractor shall include in its verification of compliance under subdivision 4 a list of all of its first-tier subcontractors that it intends to retain for work on the project. Prior to execution of a construction contract, and as a condition precedent to the execution of a construction contract, the apparent successful prime contractor shall submit to the contracting authority a supplemental verification under oath confirming compliance with subdivision 3, clause (7). Each contractor or subcontractor shall obtain from all subcontractors with which it will have a direct contractual relationship a signed statement under oath by an owner or officer verifying that they meet all of the minimum criteria in subdivision 3 prior to execution of a construction contract with each subcontractor.

FIRST TIER SUBCONTRACTOR NAMES* (Legal name of company as registered with the Secretary of State)	**Name of city where company home office is located**

*Attach additional sheets as needed for submission of all first-tier subcontractors.

SUPPLEMENTAL CERTIFICATION FOR ATTACHMENT A-1	
By signing this document I certify that I am an owner or officer of the company, and I swear under oath that: **All first-tier subcontractors listed on attachment A-1 have verified through a signed statement under oath by an owner or officer that they meet the minimum criteria to be a responsible contractor as defined in Minn. Stat. § 16C.285.**	
Authorized Signature of Owner or Officer:	**Printed Name:**
Title:	**Date:**
Company Name:	

ATTACHMENT A-2

ADDITIONAL SUBCONTRACTORS LIST

PRIME CONTRACTOR TO SUBMIT AS SUBCONTRACTORS ARE ADDED TO THE PROJECT

STATE PROJECT NUMBER: _____

This form must be submitted to the Project Manager or individual as identified in the solicitation document.

Minn. Stat. § 16C.285, Subd. 5. … If a prime contractor or any subcontractor retains additional subcontractors on the project after submitting its verification of compliance, the prime contractor or subcontractor shall obtain verifications of compliance from each additional subcontractor with which it has a direct contractual relationship and shall submit a supplemental verification confirming compliance with subdivision 3, clause (7), within 14 days of retaining the additional subcontractors. …

ADDITIONAL SUBCONTRACTOR NAMES* (Legal name of company as registered with the Secretary of State)	**Name of city where company home office is located**

*Attach additional sheets as needed for submission of all additional subcontractors.

SUPPLEMENTAL CERTIFICATION FOR ATTACHMENT A-2	
By signing this document I certify that I am an owner or officer of the company, and I swear under oath that: **All additional subcontractors listed on Attachment A-2 have verified through a signed statement under oath by an owner or officer that they meet the minimum criteria to be a responsible contractor as defined in Minn. Stat. § 16C.285.**	
Authorized Signature of Owner or Officer:	**Printed Name:**
Title:	**Date:**
Company Name:	

CONTRACTOR
&
CITY OF DULUTH

THIS AGREEMENT, effective as of the date of attestation by the City Clerk, is made by and between the **CITY OF DULUTH**, a municipal corporation, hereinafter referred to as the "CITY," party of the first part, and **Contractor, address,** hereinafter referred to as the "Contractor," party of the second part;

WITNESSETH: That the Contractor and the City agree as follows:

1. The following shall be deemed to be part of this contract:
   a. The annexed resolution and legal advertisement of the City Council.
   b. The bid request and specifications, as modified by irreconcilable language in this written contract.
   c. The bid by Contractor, as modified by irreconcilable language in this written contract.
   d. The performance bond and payment bond certification.
   e. All provisions of law applicable to a contract of this nature.

2. The Contractor agrees to furnish and deliver to the Department all labor, supervision, material, equipment, supplies, insurance, performance bond, payment bond and everything else necessary for general construction of Project at location, all in strict accordance with plans and specifications prepared by design co. or city architect, your bid of $ and resolution no. passed on date. Contractor shall not commence performance of any work under this contract until Contractor receives authorization from the City's Purchasing Agent in writing and dated.

3. The City agrees to pay progress payments and make final payments to the Contractor as stated in the contract specifications. The total amount payable under this contract shall not exceed **dollar amount spelled out ($)** unless the contract is modified by formal amendment or change order. Payments under this Agreement shall be made from the following funding and RQ no. Due to the dollar amount of this contract, a Project Labor Agreement is or is not included as part of this contract (City Code Section 2-29).

4. The Contractor shall furnish and maintain in full force and effect until this contract is completely performed by the Contractor, a performance bond and payment bond if and when required by law, or if and when required by the City.

5. Inasmuch as this contract concerns work, materials and equipment needed for the public benefit, the provisions of this contract relating to the time of performance and completion of work and delivery of materials or equipment are of the essence of this contract.

6. The Contractor will defend, indemnify and save the City harmless from all costs, charges, damages, and loss of any kind that may grow out of the matters covered by this contract.

DRAFT

Said obligation does not include indemnification of the City for claims of liability arising out of the sole negligent or intentional acts or omissions of City but shall include but not be limited to the obligation to defend, indemnify and save harmless the City in all cases where claims of liability against the City arise out of acts or omissions of City which are derivative of the negligence or intentional acts or omissions of Contractor such as, and including but not limited to, the failure to supervise, the failure to warn, the failure to prevent such act or omission by Contractor and any other such source of liability. In addition Contractor will comply with all local, state and federal laws, rules and regulations applicable to this contract and to the work to be done and things to be supplied hereunder.

7. Insurance

a. Contractor shall provide the following minimum amounts of insurance from insurance companies authorized to do business in the state of Minnesota, which insurance shall indemnify Contractor and City from all liability described in Paragraph 6 above, subject to provisions below.

(1) Workers' compensation insurance in accordance with the laws of the State of Minnesota.

(2) Public Liability and Automobile Liability Insurance with limits not less than **$1,500,000** Single Limit, and twice the limits provided when a claim arises out of the release or threatened release of a hazardous substance; shall be in a company approved by the city of Duluth; and shall provide for the following: Liability for Premises, Operations, Completed Operations, Independent Contractors, and Contractual Liability.

(3) City of Duluth shall be named as **Additional Insured** under the Public Liability, Excess/Umbrella Liability* and Automobile Liability, or as an alternate, Contractor may provide Owners-Contractors Protective policy, naming itself and the City of Duluth. Contractor shall also provide evidence of Statutory Minnesota Workers Compensation Insurance. Contractor to provide Certificate of Insurance evidencing such coverage with 30-days' notice of cancellation, non-renewal or material change provisions included. The City of Duluth 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 City of Duluth as an additional insured.*

(4) If a certificate of insurance is provided, the form of the certificate shall contain an unconditional requirement that the insurer notify the City without fail not less than 30 days' prior to any cancellation, non-renewal or modification of the policy or coverages evidenced by said certificate and shall further provide that failure to give such notice to City will render any such change or changes in said policy or coverages ineffective as against the City.

(5) The use of an "ACORD" form as a certificate of insurance shall be accompanied by two forms – 1) ISO Additional Insured Endorsement (CG-2010 pre-2004) and 2) Notice of Cancellation Endorsement (IL 7002) or equivalent, as approved by the Duluth City Attorney's Office.

b. The insurance required herein shall be maintained in full force and effect during the life of this Agreement 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 Agreement.

c. Certificates showing that Contractor is carrying the above described insurance in the specified amounts shall be furnished to the City prior to the execution of this Contract and a certificate showing continued maintenance of such insurance shall be on file with the City during the term of this Contract.

d. Contractor shall be required to provide insurance meeting the requirements of this Paragraph 7 unless Contractor successfully demonstrates to the satisfaction of the City Attorney, in the exercise of his or her discretion, that such insurance is not reasonably available in the market. If Contractor demonstrates to the satisfaction of the City Attorney that such insurance is not reasonably available, the City Attorney may approve an alternative form of insurance which is reasonably available in the market which he or she deems to provide the highest level of insurance protection to the City which is reasonably available.

8. No claim whatsoever shall be made by the Contractor against any officer, agent or employee of the City for, or on account of, anything done, or omitted to be done, in connection with this contract. If this contract is not made in conformity with mandatory provisions of any statute or of the ordinances and charter of the City of Duluth, the Contractor agrees to raise no defense and make no claim against the City on the basis of ratification, laches, estoppel, or implied contract.

9. The Contractor shall not assign, transfer, convey or otherwise dispose of this contract, or his right to execute it, or his right, title or interest in or to it, or any part thereof, without the consent of the City, evidenced by a resolution duly adopted by the City Council. The prohibition contained in this paragraph shall not be deemed to prevent the contractor from subcontracting. Contractor shall remain primarily responsible for all work performed by any subcontractor.

10. The Contractor agrees that in the hiring of common or skilled labor for the performance of any work under this contract, Contractor will not discriminate by reason of race, creed or color, religion, national origin, sex, marital status, status with regard to public assistance, disability or age.

11. The Contractor agrees that Contractor shall not in any manner discriminate against or intimidate or prevent the employment of any person or persons, or on being hired, prevent or conspire to prevent any person or persons from the performance or work under this contract on account of race, creed or color, religion, national origin, sex, marital status, status with regard to public assistance, disability or age.

12. The contractor agrees that, as provided in Minnesota Statutes 16C.05, Subd. 5, contractor's books, records, documents, and accounting procedures and practices are subject to examination by the City or the state auditor for six years from the date of final payment under this contract.

13. This contract may be cancelled or terminated by the City and all moneys due or to become due hereunder may be forfeited for any failure to perform any terms or conditions of this contract including but not limited to any violation of the terms or conditions of Section 10 or 11 of this contract.

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

15. This contract is made in the state of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder shall be in a court located in St. Louis, County, Minnesota, and the parties to this Agreement waive objection to the jurisdiction of this court, whether based on convenience or otherwise.

16. This Agreement constitutes the entire agreement between the City and the Contractor on the subject matter hereof. It may not be changed, modified, discharged or extended except by written instrument duly executed on behalf of the City and the Contractor. The Contractor agrees that no representations or warranties made by the City shall be binding upon the City unless expressed in writing herein.

17. This Agreement shall not be in force and effect, or in any way binding upon the City until the same shall have been approved by the Department Head, signed by the Mayor, attested by the Clerk, and countersigned by the City Auditor.

18. The Contractor unconditionally guarantees to perform all work pursuant to this contract in a good and workmanlike manner, in strict compliance with the specifications and instructions hereto attached, and to the satisfaction of the City of Duluth.

19. This Agreement may be executed in counterparts, each of which shall be deemed to be original and all of which together shall constitute the binding and enforceable agreement of the parties hereto. This Agreement may be executed and delivered by a party by facsimile or PDF transmission, which transmission copy shall be considered an original and shall be binding and enforceable against such party.

Countersigned:

_____
City Auditor
Approved this_____day of _____

_____
Department Director
Approved this_____day of _____

_____
Purchasing Agent
Approved this_____day of _____

_____
Assistant City Attorney
Approved this_____day of _____

CITY OF DULUTH-Client

By

_____
Mayor

Attest:

_____
City Clerk
Attested this_____day of _____

CONTRACTOR/COMPANY
Contractor

By

_____
Company Representative

Its

_____
Title of Representative
Approved this_____day of _____

CITY OF DULUTH - PART II -

SUPPLEMENTARY GENERAL CONDITIONS FOR FEDERALLY, STATE OF MINNESOTA, AND/OR CITY ASSISTED ACTIVITIES

(revised 4/15/11)

The following conditions take precedence over any conflicting conditions in this Contract.

Section	Title
1	Restrictions on Disbursements, Subcontractors Federal Agency Requirements, Separability, Property
2	Miscellaneous Provisions
3	Definitions
4	Environmental Provisions
5	Contract Compliance
6	Records, Reports and Information, Audits and Inspections
7	Conflict of Interest and Lobbying
8	Labor Standards - Physical Improvement Projects
9	Minnesota Department of Transportation Specification 1960 Partial Payments
10	Housing and Urban Development (HUD) Section 4010
11	Equal Opportunity and Affirmative Action
12	Employment Opportunities - "HUD Section 3"
13	Federal Requirements for Minority/Women Business Enterprises Contract Guidance - MPFA
14	Forms

E-Mail Addresses

For ease in communication, the e-mail address of the person(s) responsible for preparing certified payroll reports (CPRs) is required from the prime contractor and all subcontractors (regardless of tier). This information will be provided to the project engineer prior to the pre-construction meeting OR with materials required in the Letter of Intent.

Section I

Restrictions on Disbursements

No money under this Contract shall be disbursed by the City to any Contractor except pursuant to a written contract which incorporates the applicable PART II, Supplementary General Conditions for Federally, State of Minnesota, and/or City Assisted Activities, and unless the Contractor is in compliance with the Federal Agency requirements with regard to accounting and fiscal matters to the extent they are applicable.

Subcontractors

(A) The Contractor shall include in any subcontract the clauses set forth in the PART II, Supplementary General Conditions for Federally, State of Minnesota and/or City Assisted Activities in their entirety and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

(B) The Contractor shall not subcontract any part of the work covered by this Contract or permit subcontracted work to be further subcontracted without the City's prior written approval of the subcontractors. The City will not approve any subcontractor for work covered by this Contract who is at the time ineligible under the provisions of any applicable regulations issued by a Federal Agency or the Secretary of Labor, United States Department of Labor, to receive an award of such subcontract.

Federal Agency Requirements

Unearned payments under this Contract may be suspended or terminated upon refusal to accept any additional conditions that may be imposed by the Federal Agency at any time; or if the grant, if applicable, to the City under which this Contract is made is suspended or terminated.

Separability

If any provisions of this Contract is held invalid, the remainder of this Contract shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

Property

Acquisition, use, and disposal of all property, materials and goods acquired as a result of activities made possible by this Contract shall be accomplished in accordance with the applicable provisions of Federal Management Circular (FMC)-74-7, as amended.

Section 2

Miscellaneous Provisions

(A) **Copyrights.** In the event this Contract results in a book or other copyrightable material, the author is free to copyright the work, but Federal Agency and the City reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all copyrighted material and all material which can be copyrighted.

(B) **Patents.** Any discovery or invention arising out of or developed in the course of work aided by this Contract shall be promptly and fully reported to the Federal Agency and the City for determination by the Federal Agency as to whether patent protection on such invention or discovery shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered in order to protect the public interests.

(C) **Political Activity Prohibited.** None of the funds, materials, property or services provided directly or indirectly under this Contract shall be used in the performance of this Contract on any partisan political activity, or to further the election or defeat of any candidate for public office.

(D) **Lobbying Prohibited.** None of the funds under this Contract shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before the Congress or the City.

(E) **Prohibition of and Elimination of Lead-Based Paint Hazard.** Notwithstanding any other provision, the Agency and Contractor agree to comply with the regulation issued by the Secretary of Housing and Urban Development set forth in 37 F. R. 22732-3 and all applicable rules and orders issued thereunder which prohibit the use of lead-based paint in residential structures undergoing Federally assisted construction or rehabilitation and require the elimination of lead-based paint hazards. Every contract or subcontract, including paint, pursuant to which such Federally assisted construction or rehabilitation is performed shall include appropriate provisions prohibiting the use of lead-based paint.

(F) **Architectural Barriers Act.** The design for and construction of any facility funded in whole or in part by this Contract shall be in conformance with the American Standard Specification for Making Buildings and Facilities Accessible and Usable by the Physically Handicapped, Number A-117.1-1971, as modified.

(G) **Relocation and Acquisition.** Any relocation or acquisition resulting from activities funded in whole or in part by this Contract shall be in conformance with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (40 U.S.C. 4601) and the implementing regulations 24CFR Part 42.

(H) **Prohibition Against Payments of Bonus or Commission.** The assistance provided under this Contract shall not be used in the payment of any bonus or commission for the purpose of obtaining Federal Agency approval for such assistance, or Federal Agency approval of applications for additional assistance, or any other approval or concurrence of a Federal Agency required under this Contract, Federal Law or Federal Regulations thereto; provided, however, that reasonable fees or bonafide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

(I) **Hatch Act.** Where applicable, the Contractor will comply with the provisions of the Hatch Act which limits the political activity of the Contractor's employees.

Section 3
Definitions

(A) City means the City of Duluth, Contracting Officer, or other persons authorized to act on behalf of the City of Duluth.

(B) Contracting Officer is the delegated representative of the City who has the responsibility for administering the Project.

(C) Contractor means an entity, whether public or private, which furnishes (other than standard commercial supplies, office space or printing services) to the City, products, services or supplies as described in this project Contract.

(D) Federal Agency means the United States, the District of Columbia, and any executive department, independent establishment, administrative agency, or instrumentality of the United States or of the District of Columbia, including any corporation, all or substantially all of the stock of which is beneficially owned by the United States, by the District of Columbia, or by any of the foregoing departments, establishments, agencies, and instrumentalities. The term Federal Agency shall also include the person or persons authorized to act on behalf of said Federal Agency.

(E) Project means the activities to be undertaken by the Contractor as described in this Contract, which from time to time may be amended by mutual consent of the City and Contractor.

(F) Subcontractor means an entity, regardless of tier, which has entered into an agreement with the Contractor or another Subcontractor, to undertake certain Project activities as described in that agreement.

(G) The term labor standards, as used in the Contract, means the requirements of the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act (other than those relating to safety and health), the Copeland Act, and the prevailing wage provisions of the other statutes listed in 20 CFR 5.1.

(H) Work means all labor necessary to produce the construction required by the Contract Documents, all materials and equipment incorporated or to be incorporated in such construction, products, services, or supplies required by the Contract Documents, or any other requirements set forth in the Contract.

(I) Additional Definitions, that are applicable to the Labor Standards provisions - Section 8 - of this Contract can be found in 29CFR5.2 as published by the U.S. Department of Labor and said definitions are hereby incorporated by reference into the provisions of this Contract.

Section 4
Environmental Provisions

(A) The Contractor agrees to follow the regulations, requirements, policies, goals and procedures set forth by the Council on Environmental Quality (CEQ) under provisions of the National Environmental Policy Act (NEPA) (Pub. L 91-190, 42 U.S.C. 4321 et seq.), Executive Order 11514, and 40 CFR Part 1500.

(B) **Historic Properties.** The Contractor agrees to follow the regulations, requirements, policies, goals, and procedures set forth under provisions of the National Historic Preservation Act of 1966 (Pub. L. 89-665); Preservation of Historic and Archeological Data Act of 1974 (Pub. L. 93-291); Executive Order 11593; 36 CFR , Part 800 and applicable State legislation or regulations.

(C) **Coastal Zones and Wetlands.** The Contractor agrees to follow the regulations, requirements, policies, goals and procedures set forth under provisions of the Coastal Zone Management Act of 1972 (Pub. L. 92-583) and applicable State legislation or regulations.

(D) **Noise.** The Contractor agrees to comply with provisions set forth in the U.S. Department of Housing and Urban Development Handbook 1390.2, Noise Abatement and Control, Department Policy, Responsibility and Standards, 1971.

(E) **Flood Plain.** The Contractor agrees to comply with the provisions set forth in the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and implementing regulations; Title 24, Chapter X, Subchapter B, National Flood Insurance Program, Executive Order 11296, and Executive Order 11988 relating to the evaluation of flood hazards.

(F) **Air Quality.** The Contractor agrees to comply with provisions set forth in the Clean Air Act (Pub. L. 90-148) and Clean Air Act Amendments of 1970 (Pub. L. 91-604); and applicable U.S. Environmental Protection Agency implementing regulations.

(G) **Water Quality.** The Contractor agrees to comply with the provisions set forth in the Federal Water Pollution Control Act (Pub. L. 92-500) and applicable U.S. Environmental Protection Agency implementing regulations, and Executive Order 11288 relating to the prevention, control, and abatement of water pollution.

(H) **Wildlife.** The Contractor agrees to comply with the provisions of the Fish and Wildlife Coordination Act (Pub. L. 85-264).

Section 5
Contract Compliance

(A) In the event of the Contractor's noncompliance with the provisions of this Contract or with any of the said regulations, the City may withhold payment(s) until evidence of compliance by the Contractor has been demonstrated, or the Contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further City contracts.

(B) In the event the Contract is terminated or canceled as a result of noncompliance with any of the provisions of this Contract, the City may subject to bids the remainder of the Project for which this Contract was made. The City shall have the right upon termination or suspension to withhold all further payments under this

Contract to the Contractor. Upon the award of a new contract for the remainder of the Project, the City shall pay to the Contractor an amount no more than the balance remaining due to the Contractor less the sum of the costs incurred by the City which are necessary in preparing the new bid specifications. In the event the amount paid the Contractor prior to the date of termination or cancellation exceeds the full amount of this Contract less the cost of the new contract and the additional costs mentioned above, the Contractor agrees to reimburse the City for such excess amount within ninety days after the new contract is awarded by the above procedures.

(C) Provisions contained in subparagraph (A) and (B) above shall not be interpreted as precluding any authorized Federal, State, or County governmental unit from exercising their legal administrative or other responsibilities in respect to the enforcement by said governmental units of laws or regulations concerning activities of the Contractor.

Section 6

Records

(A) **Establishment and Maintenance of Records.** Records shall be maintained in accordance with requirements prescribed by the Federal Agency or the City with respect to all matters covered by this Contract. Except as otherwise authorized by the Federal Agency, such records shall be maintained for a period of three years after receipt of final payment under this Contract.

(B) **Documentation of Costs.** All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or 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.

Reports and Information

At such times and in such forms as the Federal Agency or the City may require, there shall be furnished to the Federal Agency or the City such statements, records, data and information as the Federal Agency or the City may request pertaining to matters covered by this Contract.

Audits and Inspection

At any time during normal business hours and as often as the City, the Federal Agency and/or the Comptroller General of the United States may deem necessary, there shall be made available to the City, the Federal Agency and/or representatives of the Comptroller General for examination of all its records with respect to all matters covered by this Contract and will permit the City, the Federal Agency and/or representative of the Comptroller General 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.

Section 7

Conflict of Interest and Lobbying

(A) **Interest of Members, Officers, or Employees of the City, Members of Local Governing Body, or Other Public Officials.** No member, officer, or employee of the City, or its designees or agents, or member of the governing body of the City, during his/her tenure of for one year thereafter, shall have any interest, direct or indirect in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Project assisted under this Contract. Any contract in which any of the above indicated individuals becomes directly or indirectly, interested, personally or as a member of a firm, or as an officer, director, or stockholder of a corporation, shall be and become absolutely void; and any money which shall have been paid on such contract by the City may be recovered back from any or all persons interested therein, by a joint action or several actions.

(B) The Contractor agrees that he will incorporate into every contract required to be in writing the following provisions: **Interest of Contractors and Employees** - The Contractor covenants that he presently has no interest and shall not acquire any interest, direct or indirect, in the Project which would conflict in any manner or degree with the performance of this Contract, and no person having any conflicting interest shall be employed. Any interest on the part of the Contractor or his employees must be disclosed to the Federal Agency and the City. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede any statutory requirements that opportunity be provided for employment of and participation by certain residents of a designated geographical are, if applicable.

(C) **Interest of Member or of Delegate to Congress.** No member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Contract if made with a corporation for its general benefit.

(D) The Contractor by signing this document certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The above certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1332, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

(E) The parties to this Contract certify and agree that they are under no contractual or other disability which would prevent them from complying with the terms of this Contract.

Section 8

Labor Standards - Physical Improvement Projects

Where applicable, there shall be included in all construction, rehabilitation, alteration or repair contracts with private entities made possible by or resulting from this Contract, the following Labor Standards provisions;

(A) **General Requirements.**

(1) **Subcontracts.** The Contractor shall include in any subcontract the clauses set forth in Section 8, **Labor Standards**, in their entirety and also a clause requiring the subcontractors to include these clauses in any Tower tier subcontract which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

(2) The transporting of materials and supplies to or from the site of the Project or Program to which this Contract pertains by the Employees of the Contractor or of any subcontractor, and the manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the Project or Program to which this Contract pertains by persons employed by the Contractor or by any subcontractor, shall for the purpose of this Contract, and without limiting the generality of the foregoing provisions of this Contract, be deemed to be work to which these **Labor Standards** provisions are applicable.

(3) No person under the age of eighteen years shall be employed on work covered by this Contract.

(4) In connection with the performance of work under this Contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment except as provided by Public Law 89-176, September 10, 1955 (18 U.S.C. 4082 (c) (2)) and Executive Order 11755, December 29, 1973.

(5) The Contractor will permit authorized representatives of the Federal Agency and the City to interview employees during working hours on the job.

(6) No employee to whom the wage, salary, or other **Labor Standards** provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the Labor Standards applicable under this Contract to his employer.

(B) **Safety Standards.** No Contractor or subcontractor contracting for any part of a construction contract shall require any laborer or mechanic, including apprentices and trainees, employed in the performance of the Contract to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his health or safety, as determined under construction safety and health standards promulgated by the Secretary of Labor. The Contractor or subcontractor comply with all the rules, regulations, and relevant orders, promulgated by the Secretary of Labor pursuant to Public Law 91-54.

(C) **Davis-Bacon Act - 29 CFR 5.5**

web site: http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title29/29cfr5_main_02.tpl

Refer to Section 10, Page 10 Housing and Urban Development (HUD) form-4010 (06/2009) Ref Handbook 1344.1

City of Duluth "Mini Davis-Bacon"

(D) **City of Duluth - Minimum Wage Ordinance 8940, as Amended.**

(1) On a project (as defined below) funded in whole or in part by federal and/or state funds and/or city of Duluth funds, these local provisions shall prevail in those instances where the requirements of the local provisions are equal to or greater than similar minimum labor standards provisions as set forth in applicable federal and/or state laws and regulations.

(2) In all contracts in excess of $2,000 for projects (as defined below), the Contractor's particular attention is called to Ordinance 8940, effective June 8, 1989, respectively coded as Article IV of Chapter 2 of the Duluth City Code, and entitled "An Ordinance Pertaining to Wages and Working Hours of Persons on Public Works in the City of Duluth", as set forth below:

(3) **Definitions.**

For the purposes of this section the following words and phrases shall have the meanings respectively ascribed to them in this section:

(a) **Basic hourly rate** - The hourly wage paid to any employee.

(b) **Prevailing wage rate** - The basic hourly rate plus fringe benefits prevailing in the city of Duluth as determined by the United States secretary of labor pursuant to the Davis-Bacon act, as amended; provided that whenever employer and employee organizations employing and representing a majority of a class of workers in a particular industry within the city jointly certify that the prevailing basic hourly rate plus fringe benefits of such workers differs from the amount determined by the secretary of labor, the certified rate shall be considered to be the prevailing wage rate for such class of workers in that industry.

(c) **Fringe benefits** - Employer contribution for health and welfare benefits, vacation benefits, pension benefits, and all other economic benefits other than the basic hourly rate.

(d) **Apprentice** - An employee who is working under a training program which is approved either by the U.S. Department of Labor Bureau of Apprenticeship & Training or the Minnesota Director of Voluntary Apprenticeship; see apprentice ratios on pages 6-7 and HUD 4010 in Section 10.

(e) **Trainee** - An employee registered with the U. S. Department of Labor Employment & Training Administration; see HUD 4010 in Section 10.

(e) **Project** - Erection, construction, demolition, painting, remodeling or repairing of any public building, highway, sidewalk, bridge, water or gas line, sewer and sewage treatment facility or other public work performed under contract with the city.

(f) **Labor, mechanic** - All persons utilized, employed or working on a project who are doing work usually done by mechanics and laborers, including proprietors, partners, and members of cooperatives.

(4) **Wage Rates and Hours for City of Duluth Projects.**

(a) Any contract which provides for a project of estimated total cost of over $2,000.00 shall contain a stipulation that no laborer, mechanic or apprentice-trainee employed directly upon the project work site by the contractor or any subcontractor shall be permitted or required to work at a rate of pay less than the prevailing wage rate; nor shall any such employee be permitted or required to work more than 8 hours in any work day **OR** 40 hours in any work week unless he is paid at a rate of at least 1½ times the basic hourly rate for all hours in excess of 8 per day **OR** 40 per week [in other words: all hours in excess of eight per day and all hours after 40 per week] and unless he receives fringe benefits that are at least equal to those in the prevailing wage rate; provided that whenever employer and employee organizations employing and representing a majority of a class of workers in a particular industry within the city jointly certify that the maximum number of hours that such persons may work under existing labor agreements before overtime wages must be paid differs from the hours specified in this paragraph, the maximum number of hours specified in such labor agreements shall be substituted for those specified above in applying the provisions of this paragraph to such workers.

(b) The word "or" in the state statute and the city of Duluth Code refers to the number of hours worked in any one week or, in the alternative, the number of hours worked in any one day in the week (the days in one week being totaled for reporting purposes); the law requires use of the alternative which results in the higher number of overtime hours for each employee whose time is being reported.

EXCEPTIONS: Federal government funding only and HUD (Housing and Urban Development) funding - see point "e'

In summary, if a project is solely funded with city of Duluth monies, city ordinance 8940 as amended allows the employees to work four ten-hour days and be paid at the regular hourly rate for those ten hours; exceeding hours must be paid at the overtime rate. An employer may not withhold overtime payment exclusively until 40 hours per week have been worked. Daily overtime must be paid as it is earned.

- **The base workweek hours must be clearly indicated on each payroll. Employees may be assigned a different workweek; however, that must be clearly marked beside the employees' names.**

The following are examples of how these rules apply to different situations.

TT refers to the total time worked on the day or in the week
RT refers to the hours worked at the regular rate of pay (straight time)
OT refers to the hours worked for which overtime must be paid

State Funded with or without federal funding Projects — City-only Funded Projects (4 ten-hour days)

	Mon	Tues	Wed	Thurs	Fri	Sat	Total		Mon	Tues	Wed	Thurs	Fri	Sat	Total
TT	10	10	10	10	0	6	46		10	10	10	10	0	6	46
RT	8	8	8	8	0	6	38		10	10	10	10	0	0	40
OT	2	2	2	2	0	0	8		0	0	0	0	0	6	6

State Funded with or without federal funding Projects — City-only Funded Projects (4 ten-hour days)

	Mon	Tues	Wed	Thurs	Fri	Sat	Total		Mon	Tues	Wed	Thurs	Fri	Sat	Total
TT	0	10	10	0	7	0	27		10	0	12	0	0	0	32
RT	0	8	8	0	7	0	23		10	0	10	10	0	0	30
OT	0	2	2	0	0	0	4		0	0	2	0	0	0	2

c) **Overtime Calculations**

Minnesota Statutes Chapter 177.42, subd 4 specifies that the prevailing hours of labor may not be more than eight hours per day or more than 40 hours per week (as stated above in (b), the City of Duluth does allow for ten hours per day/40 hours per week with City funding *only*. Example: hours exceeding eight per day are paid at 1.5 times the rate in the contract's wage decision OR the base rate the employee is being paid if it is higher than the required base rate; once 40-hours in any one week are attained, all hours exceeding that 40 are paid at 1.5 times the rate in the project contract's wage decision. See example (1) and (2) below.

Minnesota Statutes Chapter 177.42, subd 5 defines the hourly basic rate as the hourly wage paid to any employee. (subd 6): The prevailing wage rate means the hourly basic rate of pay plus the contribution for health and welfare benefits, vacation benefits, pension benefits, and any other economic benefit paid to the largest number of workers engaged in the same class of labor within the area...

Minnesota Statutes Chapter 177.43, subd 1 (1) ...employees are permitted to work more hours than the prevailing hours of labor [being] paid for all hours in excess of the prevailing hours at a rate of at least 1-½ times the hourly basic rate of pay. (2) A laborer or mechanic may not be paid a lesser rate of wages than the prevailing wage rate in the same or most similar trade or occupation in the area.

An employer may pay a lower **regular time/straight time** hourly rate and higher fringe benefit rate--to a bona fide plan--than stated in the contract's wage decision providing the total of the two rates is equal to or greater than the total in the wage decision; however, the **OVERTIME rate** must be paid on the higher rate in the contract's wage decision.

(1) Overtime Calculation with Fringe Benefits Paid to Bona Fide Plans

For overtime purposes, an employer paying higher fringe benefits to a bona fide plan and paying a lower hourly rate MUST calculate the overtime on the higher hourly rate as stated in the project contract's wage decision. The fringe benefit amount may be reduced to reflect any increase in the total prevailing wage package IF the plan administrator permits such a reduction. This acceptance must be verified in writing by the plan administrator and attached to the appropriate certified payroll report.

(2) Overtime Calculation with Cash Payment of Fringe Benefits

When the fringe benefit is paid directly to an employee, the prevailing base rate and the fringe benefit rate as established in the project contract's wage decision for a specific classification are totaled to arrive at the hourly rate. *Overtime is calculated at 1.5 x the base rate of the wage decision with the fringe benefit amount added to that rate: base rate of the wage decision x 1.5 + fringe benefit rate = overtime rate.*

Contract Work Hours and Safety Standards Act

[Refer to page two of this document.] All projects valued at $100,000 or greater are subject to this Act. As with Minnesota Statutes Chapter 177.43, the overtime rate is calculated as in items one and two above OR (e) below.

(d) A contractor shall not reduce a worker's private, regular rate of pay when the wage rate certified by the U. S. Department of Labor or the Minnesota Department of Labor & Industry is less than the worker's normal hourly wage [Minnesota Statute 181.03 subdivision 1(2)].

(e) **Regular Time & Overtime Definitions**

• **State of Minnesota** funded projects with or without federal funding *only allow for five eight-hour days per week at regular time.* Overtime is calculated at a rate not less than time and one-half (1.5) of the prevailing base rate as stated in the wage decision OR the base rate the employee is being paid if it is higher than the required base rate--plus the straight time fringe benefit amount. (see (1) above for example when a lower base rate and higher fringe are paid)

• **City of Duluth** funded projects do permit four ten-hour work days at regular time–see point 4-a, b for stipulations. Overtime is calculated at a rate not less than time and one-half (1.5) of the prevailing base rate as stated in the wage decision--OR the base rate the employee is being paid if it is higher than the required base rate--plus the straight time fringe benefit amount. (see (1) above for example when a lower base rate and higher fringe are paid)

• **Federal** funded only projects allow overtime pay for hours worked in excess of 40 in a workweek at a rate not less than time and one-half (1.5) of the prevailing base rate as stated in the wage decision OR the base rate the employee is being paid if it is higher than the required base rate--plus the straight time fringe benefit amount.

• **HUD** funded projects allow overtime pay for hours worked in excess of 40 in a workweek at a rate not less than time and one-half (1.5) of the prevailing base rate as stated in the wage decision OR the base rate the employee is being paid if it is higher than the required base rate--plus the straight time fringe benefit amount.

** When a combination of funding sources are included in any one project, the most strict requirements will apply.

(f) The minimum hourly prevailing wages are contained in each project specification. When both federal (general decision rates from the U. S. Department of Labor) and State of Minnesota prevailing wages for state funded construction projects from the Minnesota Department of Labor and Industry are used, the prime contractor and all subcontractors including trucking operations, are required to **pay the higher of the two wages** for all laborers and mechanics [MnDOT Contract Administration Manual, Section 5-591.320].

(g) The prime contractor and any lower-tier subcontractor shall review all wage decisions and compensate a worker according to the type of work performed and at the rate that is the greatest.

(h) State of Minnesota prevailing wages typically list two rates for each classification with two effective dates. Should any City of Duluth contract continue to and past the second effective date, that rate and fringe benefit will be in effect through the remainder of the project.

(i) **Mn/DOT Statement of Compliance is required on all city of Duluth construction projects (regardless of the project funding source) with each weekly certified payroll report.** web site: http://dot.state.mn.us/const/labor/forms.html

(j) All contracts for city projects shall have applicable schedules of prevailing wage rates set forth in the contract. Schedules of applicable prevailing wage rates shall be posted on all project job sites for public review and shall be protected from the weather.

(k) Employees on projects shall be paid at least **weekly**. Fringe benefits shall be paid either in cash or to an employee benefit plan that has been approved by the U.S. Department of Labor. ■ **The fringe benefit package is an integral portion of the prevailing wage. Should the prime contractor or any subcontractor (regardless of tier) become delinquent with any fringe benefit plan administrator's requirements for monthly payment, the monthly estimate(s) may be withheld until the plan payments are made current.** (city ordinance 8940 6-18-89 plus amendments)
See MnDOT Specification 1906 on page nine and Section 5 of this document: Contract Compliance.
See Statement of Compliance and Certified Payroll Report requirements in Section 10, HUD 4010 and web sites in Section 14, Forms.

(l) Any contractor or subcontractor working on a project shall furnish the City with **original** certified payroll reports with **original signatures** relating to the project. Such certified payroll reports shall be **submitted weekly** on U.S. Department of Labor standard forms (WH-347) or their equivalent–using the same format--to the City of Duluth Labor Standards representative. All City of Duluth funded projects must have the base workweek hours indicated on the certified payroll form and/or beside each employee's name (should some employees be working different base workweeks).

(m) No contractor or subcontractor working on a project shall evade or attempt to evade the provisions of this section through the use of non-recognized training programs. The only employees involved in training programs that shall be allowed to work on projects covered by this section shall be apprentice-trainees as defined by this article.

(n) Any person violating the provisions of this section shall be guilty of a misdemeanor with each day of violation constituting a separate offense. In addition, if the prevailing wage rate and accompanying fringe benefit rate is not paid to employees working on a project, the City of Duluth may withhold contract payments to the prime contractor until such deficiencies are corrected. Should fringe benefits be paid to authorized Plans, the payments must be made within the demands of those Plans. Delinquencies may result in withholding of project funds to the prime contractor.

(o) This section shall not apply to contracts for projects where the total cost of the project is less than $2,000.00; nor to materialmen who do no more than deliver materials to the work site, **except** that this section shall apply to employees who deliver asphalt, concrete or mineral aggregate such as sand, gravel or stone where such material is incorporated into the project by depositing the material substantially in place, either directly or through spreaders, from the transporting vehicle.

(5) **Helpers**

A helper may perform work *only* if the helper classification is specified and defined in the federal wage decision and/or State of Minnesota wage decision incorporated into the project contract. Without such a helper classification, the contractor must assign a job classification that is the "same or most similar" [Minnesota Statute 177.44, subdivision 1] and compensate the helper for the actual work performed regardless of the helper's skill level.

(6) **Apprentice Ratios**

Journeyworkers must be on site with the apprentices and their hours must match.

FUNDING SOURCE:

City of Duluth and State of Minnesota with or without Federal funding

- Apprentices are not permitted to work alone under any circumstances.
- Working foremen are acceptable as a journeyworker PROVIDING he/she is in the same classification.
  - » Example: carpenter foreman and carpenter apprentice
- Ratios are determined by the trade's labor agreement.
- In the absence of ratio language, the following State of Minnesota apprenticeship ratios will be applied:
  (apprentice : journeyworker) 1:1 2:4 3:7 4:10, etc.

- Employees working in excess of the allowable ratio must be paid the full journeyworker compensation.
- Out-of-ratio apprentices will be calculated beginning with the **apprentice at the highest level of training** and, then, to less senior apprentices in their rank order.
- Should two or more out-of-ratio apprentices have the same level of training, whomever was on the work site first will receive journeyworker pay; if the apprentices at the same level of training began work on the project site at the same time, hours worked out-of-ratio for which restitution is due will be divided among those apprentices.

Examples:

Four apprentices working unsupervised are on site. [4:0]
Ratio calls for four apprentices and ten journeyworkers [4:10]
Correction: all apprentices will receive the full journeyworker compensation as apprentices are not permitted to work alone.

Three apprentices and two journeyworkers are on site. [3:2]
Ratio calls for three apprentices and seven journeyworkers [3:7]
Two journeyworkers may accompany only one apprentice; therefore, the two highest level apprentices are paid the full journeyworker compensation.
Even though this particular job has three apprentices–the second journeyworker is a mute point; a third journeyworker would also be a mute point in this example.
Correction: the two highest level apprentices are paid the full journeyworker compensation and the third lower level apprentice is considered in ratio.

H U D (CDBG) and Federal funding only

- Apprentices are not permitted to work alone unless the U. S. Department of Labor-approved agreement allows that practice.
- Working foremen are acceptable as a journeyworker PROVIDING he/she is in the same classification.
  » Example: electrician foreman and electrician apprentice
- Ratios are determined by the trade's U. S. Department of Labor-approved agreement.
- In the event of the absence of ratio language in the applicable agreement, the Minnesota Department of Labor ratio of one apprentice for the first journeyworker and one apprentice for each three journeyworkers thereafter will be applied, (i.e., 1:1, 2:4, 3:7, 4:10, etc.).

- The **legal apprentices are those who first came to work on the job site;** in the event that all apprentices begin work on the project site at the same time, hours worked out-of-ratio for which restitution is due will be divided among the apprentices.
- Time cards will be required to substantiate the start times.
- Employees working in excess of the allowable ratio--or for which U. S. Department of Labor-apprentice agreement/certificate is not provided–must be paid the full journeyworker compensation.

Examples:

Four apprentices and one journeyworker are on site. [4:1]
Ratio calls for four apprentices and ten journeyworkers. [4:10]
The first apprentice on site is considered in ratio as one journeyworker may only accompany one apprentice [1:1]; this particular job has four apprentices.
Correction: the second through the fourth apprentices coming on site are paid the full journeyworker compensation.

Six apprentices and two journeyworkers are on site [6:2]
Ratio calls for six apprentices and sixteen journeyworkers [6:16]
The first apprentice on site is considered in ratio as two journeyworkers may only accompany one apprentice; this particular job has six apprentices–the second journeyworker is a mute point.
Correction: the second through sixth apprentices coming on site are paid the full journeyworker compensation.

(7) **Poster Boards**

The prime contractor must construct and display a poster board, which contains all required posters, is legible and is accessible to all workers from the first day of work until the project is 100% complete. Posters must be protected from the weather. Prime contractors are not allowed to place a poster board at an off-site facility location.

(8) **Trucking Issues**

a) For the purpose of sections seven and eight, the term "owner" includes all persons having an ownership interest in the trucking entity or a partnership interest in the trucking entity and has a legal and rightful title to the vehicle(s) or has an approved lease on the vehicle(s). "Operate" means the owner either physically drives the vehicle or hires another to physically drive the vehicle; yet, maintains the right to direct the day-to-day operations of the vehicle.

b) Trucking Operations Definitions: See MN Rule 5200.1106 web site: https://www.revisor.mn.gov/rules/?id=5200.1106

Independent Trucking Operator: an individual or partnership who owns or holds a vehicle under lease and who contracts that vehicle and the owner's services to an entity which provides construction services to a public works project. The individual owns or leases and drives the equipment, is responsible for the maintenance of the equipment, bears all operating costs, determines the details and means of performing the services, and enters into a legally binding agreement that specifies the relationship to be that of an independent contractor and not that of an employee.

Multiple Truck Operations: any legal business entity that owns more than one vehicle and hires the vehicles out for services to brokers or contractors on public works projects. The owners of a trucking firm may either drive the vehicles or hire employees to drive the vehicles. Employee drivers are subject to the appropriate prevailing wage rate. The owner driving a vehicle is obligated to account for the value of his/her services as a driver at the appropriate prevailing wage.

Partnerships: a legal business entity where two or more individuals hold vehicles under lease and contract those vehicles and their services to an entity which provides construction services to a public works project. The partners own or lease the equipment, are responsible for maintenance and all operating costs, drive the equipment, determine the details and means of performing the services, and enter a legally binding agreement that specifies the

relationship to be that of a partner and not that of an employee. All partners are subject to the appropriate prevailing wage per city of Duluth ordinance 8940 as amended.

Corporation: any legal business entity that owns or leases vehicles to provide construction services to public works projects. All individuals are employees of the corporation and subject to the appropriate prevailing wage regardless of title or position.

Broker: an individual or firm who (activities include, but are not limited to):

- contracts to **provide** trucking services [equipment and driver] in the construction industry to users of such services, such as prime contractors and various subcontractors of the prime;
- contracts to **obtain** services from other trucking operations and dispatches them to various assignments;
- receives payment from the users (such as prime contractors and various subcontractors) in consideration for the trucking services provided; and
- makes payment to the providers (trucking operations so contracted with) for their services.

(9) **Specific documentation from trucking operations.**

Independent Trucking Operators

The owner/operator of a truck must submit a copy of his/her commercial driver's license (CDL), cab card, and insurance certificate for each truck the owner/operator drives on each construction project *before commencing work* on that project. These documents must be sent to the prime contractor who will then forward the material to Labor Standards, Engineering Division at the City of Duluth.

Multiple Truck Operators

Weekly certified payrolls and payment of corresponding prevailing wages plus the fringe benefit package will be required for each project where trucks are operating. This covers the owner plus all employees performing work on the project.

Partnerships

Weekly certified payrolls and payment of corresponding prevailing wages plus fringe benefit packages will be required for each project where trucks are operating. This covers all partners of the organization who perform work on the project.

Each partner performing work on a project must submit a copy of his/her commercial driver's license (CDL), cab card, and insurance certificate for the truck being operated with that weekly certified payroll. It is not necessary to repeat such supporting documentation until a different truck is used and/or certificates or licenses have expired.

Employees of the partnership are always reported on a weekly certified payroll and paid the appropriate prevailing wage plus fringe benefit package for the work being performed.

Corporations

All persons employed by the corporation are subject to receive payment of the prevailing wage plus the fringe benefit package for the work performed on a project regardless of title or position. Weekly certified payrolls must be submitted for all work performed on the project.

Brokers

Truck ownership and a **bonafide contract** between the broker and another trucking operation, a prime contractor, or a subcontractor must be identified. Paperwork must be submitted with the month end trucking report to the city of Duluth Labor Standards representative - Engineering. Certified payrolls are not required when the above documentation is provided and approved.

(10) **Month End Trucking Report - ONLY REQUIRED WITH STATE OF MINNESOTA FUNDING**

The Minnesota Department of Transportation Month End Trucking Report Form A and Form B plus Minnesota Department of Transportation Month End Trucking Report Statement of Compliance are *only required on state funded projects*.

A guide for completing the forms including definitions and the reports, themselves, may be downloaded from:

www.dot.state.mn.us/const/labor/forms.html

Payment to the prime contractor may be withheld until documentation is received and approved.

(11) **Truck Rental Rates - ONLY REQUIRED WITH STATE OF MINNESOTA FUNDING**

Truck rental rates are listed in the prevailing wage section of the project specifications.

(12) **Minnesota Rules 5200.1105 and 5200.1106**

These rules are incorporated into this supplementary general conditions part II by reference and are found on these web sites:

www.revisor.mn.gov/rules/?id=5200

(13) **Truck Axles** web site: https://www.revisor.mn.gov/rules/?id=5200.1100

Per Minnesota Rules 5200.1100 Master Job Classifications, a truck "unit" refers to all axles including the steering axle. A tag axle is also counted as one of the axles. Examples: four rear axles plus one steering axle = five axles total one rear axle plus one steering axle = two axles total

(14) **Non-Compliance and Enforcement**

a) The prime contractor shall be liable for any unpaid wages to its workers or those of its lower-tier subcontractors, trucking companies/Multiple Truck Owners (MTO's) and/or Independent Truck Owner/Operator (ITOs) [MnDOT Standard Specifications for Construction, Section 1801].

b) See Section 9, MnDOT Specification 1906 Partial Payments and Section 5, page two of this document.

c) City of Duluth ordinance 8940 as amended.

(15) **IC-134 form - Withholding Affidavit for Contractors**

The IC-134 form will be required from all Multiple Truck Operators, Partnerships, and Corporations performing trucking services on a project before the retainage or all remaining funds can be released. Web site for completing form online: www.mndor.state.mn.us

The form, itself, is found at: and www.taxes.state.mn.us/Forms_and_Instructions/ic134.pdf

(16) **Owners, Supervisors, Foremen listed on certified payrolls.**

All persons working on a City of Duluth project including owners, partners, supervisors, salaried persons, and working foremen who perform laborer and/or mechanic work shall be reported on the weekly certified payroll reports including all data required of any laborer or mechanic. (ordinance 8731, 6/24/85 and 8940 as amended).

(17) **Supporting documentation**.

At his/her discretion, the City of Duluth employee responsible for prevailing wage labor standards may demand proof of payment of the prevailing wage which may include copies of a payroll register, itemized time sheet and matching cancelled check, or any other supporting documents as stipulated. Payment to the prime contractor may be withheld until documentation is received and approved.

(18) **Kickbacks from Public Works employees prohibited**.

No contractor working on a project or other person shall, by force intimidation, or threat of termination of employment, cause any employee working on a project to give up any part of the compensation to which he is entitled under his contract of employment.

Section 9
Minnesota Department of Transportation Specification 1906 Partial Payments
Process For "Withholding Contract Monies" and "Default and Termination of a Contract" 11/5/04

Mn/DOT Specification 1906 Partial Payments describes the Commissioner's authority to withhold funds to protect the Department's interests. In addition, Specification 1808 Default and Termination of a Contract describes the Commissioner's authority to take the prosecution of the work out of the hands of the Contractor.
Additionally, on projects funded in whole or part with federal funds and in accordance with the Required Contract Provisions Federal-Aid Construction Contracts Form – 1273, Section IV, Subpart 6, "Withholding", incorporated into federal aid contracts, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds until such violations have ceased.

However, the Department must give the Contractor, and it's Sureties due notice prior to exercising these authorities. The withholding of contract funds, in accordance with Specification 1906 or the Required Contract Provisions Federal-Aid Construction Contracts Form – 1273, Section IV, Subpart 6, "Withholding", should be implemented as soon as a possible prevailing wage violation is recognized. However, Default and Termination of a Contract, in accordance with Specification 1808, should only be exercised as a "last resort" if the Contractor is not willing to comply.

Definitions

(Mn/DOT Standard Specifications for Construction 2000 Edition, Section 1103)
Commissioner: The Commissioner of the Minnesota Department of Transportation, or the chief executive of the department or agency constituted for administration of Contract work with its jurisdiction.
Contractor: The individual, firm or corporation Contracting for and undertaking prosecution of the prescribed work; the party of the second part to the Contract, acting directly or through a duly authorized representative.
Department: The Department of Transportation or the State of Minnesota, or the political subdivision, governmental body, board, commission, office, department, division, or agency constituted for administration of the Contract work within its jurisdiction.

(Form 1273 - 29 CFR, Part 5.1, Definitions)

Contracting Officer: The individual, a duly appointed successor or authorized representative who is designated and authorized to enter into Contracts on behalf of the Federal Agency and/or the City of Duluth.

Important Considerations

1. Upon completion of the work under a contract, the department should consider issuing the final voucher as soon as possible. Failure to finalize a contract expeditiously could result in subsequent claims that would prevent the department from finalizing the contract. However, before the issuance of the final voucher, the department must be able to ensure that the terms of the contract have been satisfied. Failure on the part of the department to ensure compliance could result in the Mn/DOT state aid division retaining funds from the department in accordance with *Minnesota Rules 8820.3000, subpart 5*.

2. On every contract, the department should withhold the final retainage in accordance with the following guidelines: (1) if the total amount of the contract is $1,000,000 or more, the department should retain funds not more than $50,000, (2) if the total amount of the contract is less than $1,000,000, the department should retain 5% of the total contract, (3) retainage should be withheld until the department can ensure that the contractor has met the terms of the contract or until the finalization of the contract.

3. This guide specifies that the department verbally notify the bonding company early in the process. Generally, as a "rule of thumb", notifying the bonding company is usually the "last resort". However, the justification for the early notification is related to the language found in *Minnesota statute 574.31, subdivision 2,* which summarizes that if an individual or the department does not submit a claim on the payment bond within 120 days after the completion of work under the contract, the claim can be denied.

The following are general guidelines that should be followed prior to placing a Contractor in default:

Step 1: Upon verbal or written notification that a possible prevailing wage violation exists, the Department should give written notice to the Contractor regarding the nature of the claim, along with the Department's intent to withhold monies until the claim is investigated and determined to be in compliance. Additionally, the Department should inform the Contractor that the bonding company has been verbally notified of the claim. Please be aware, the Department should ensure employee confidentiality at all times.

Step 2: Upon a preliminary determination surrounding the financial extent of the claim, the Department should consider retaining a "reasonable" portion of one or more partial estimates in accordance with Mn/DOT's 2000 Standard Specifications for Construction, Section 1906; or on federal aid contracts, in accordance with the Required Contract Provisions Federal-Aid Construction Contracts Form – 1273, Section IV, Subpart 6, "Withholding".

Step 3: If it is determined that the claim is valid, the Department should schedule a meeting with the Contractor and attempt to resolve the matter. If the claim is determined to be invalid, the Department should release any partial estimates that may have been held as a result of the claim. However, the Department should continue to withhold the final retainage in accordance with the above-mentioned: *Important Considerations, 2*.

Step 4: If resolution cannot be obtained through a meeting, the Department should order the Contractor, in writing, to complete their obligations under the contract. The letter should clearly state the circumstances under which the Department has deemed that the Contractor has not met the terms of the contract. Additionally, the Department should include a reasonable deadline for this obligation to be completed. A copy of this letter should be forwarded to the Surety, District State Aid Engineer (DSAE), Labor Compliance Unit and the Department's Attorney.

Step 5: In the event that the Contractor does not respond to the Department's written order, the Department should send a similar letter, requesting that the Contractor respond immediately, in writing, regarding the Contractor's intention to comply or not comply with the order. A copy of this letter should be forwarded to the Surety, District State Aid Engineer (DSAE), Labor Compliance Unit and the Department's Attorney.

Step 6: If the Department still does not get a proper response from the Contractor, the Department should write another letter, addressed to both the Contractor and the Surety, specifying all the facts of the alleged breach, demanding that the Contractor, or its Surety, respond satisfactorily within 10 days or the Department may exercise its authority to Default and Terminate the Contract in accordance within/DOT's 2000 Specifications for Construction, Section

1808. It's important to provide sufficient detail so that the Surety understands the situation. This notification should be sent by certified mail. A copy of this letter should be forwarded to the Surety, District State Aid Engineer (DSAE), Labor Compliance Unit and the Department's Attorney.

Step 7: If the Contractor or Surety is unresponsive after 10 days, the Department should consult with their attorney to consider proceeding with Default and Termination of the Contract.

Step 8: Upon termination of the contract, the Department provides a written order to the Surety, requiring the Surety to bring resolution to the prevailing wage violation.

Step 9: The Department places the Contractor on a Non-Responsible Bidder's List and rejects any future awards.

Section 10

Federal Labor Standards Provisions U.S. Department of Housing and Urban Development Office of Labor Relations

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Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section l(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part Previous editions are obsolete Page 2 of 5 form **HUD-4010** (06/2009) ref. Handbook 1344.1 of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee 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 the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section l(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section l(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at *http://www.dol.gov./whd/wh347.pdf* or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

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(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant ',to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding

journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by
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the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.
(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.
(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than $5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. <u>Contract Work Hours and Safety Standards Act.</u> The provisions of this paragraph B are applicable where the amount of the prime contract exceeds $100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such 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 the clause set forth in subparagraph (1) of this paragraph, 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 40 hours without payment of the overtime wages required by the clause set forth in sub paragraph (1) of this paragraph.
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(3) Withholding for unpaid wages and liquidated damages. HUD or its designee 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 contract, 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 the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph 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 subparagraphs (1) through (4) of this paragraph.

C. <u>Health and Safety.</u> The provisions of this paragraph C are applicable where the amount of the prime contract exceeds $100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

Section 11

Equal Opportunity Laws and Regulations

(A) In addition to Contract specifications set forth below, the Contractor shall conduct and administer this Contract in compliance with:

(1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) and implementing regulations issued at 24 CFR Part 1;
(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), as amended, and implementing regulations;
(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto (24 CFR Section 570.601);
(4) Section 3 of the Housing and Urban Development Act of 1968, as amended, and implementing regulations of 24 CFR Part 135;
(5) Executive Order 11246, as amended by Executive Order 11375 and 12086 and implementing regulations at 41 CFR Chapter 60;
(6) Executive Order 11063, as amended by Executive Order 12259 and implementing regulations at 24 CFR Part 107;
(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;
(8) The Age Discrimination Act of 1975, as amended, (Pub. L. 94-135) and implementing regulations when published for effect;
(9) The Minnesota Human Rights Act of 1974, as amended (Chapter 363).

Equal Opportunity and Affirmative Action

(A) Contractors and Subcontractors that have a work force in excess of fifty (50) employees and a contract in excess of $50,000.00 shall prepare and maintain an appropriate affirmative action plan in accordance with the provisions of 41 CFR 60 "Compliance Responsibility for Equal Opportunity".

(B) Non-segregated Facilities. The Contractor shall certify that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Contractor covenants that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. As used in this paragraph the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, creed, religion, national origin, ancestry, age, marital status, status with respect to public assistance, and/or disability because of habit, local custom, or otherwise.

General Provisions Against Discrimination

(A) In all hiring or employment made possible by or resulting from this Contract, there:

(1) will not be any discrimination against any employee or applicant for employment because of race, color, creed, religion, national origin, ancestry, age, sex, marital status, status with respect to public assistance, and/or disability.

(2) affirmative action will be taken to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, religion, national origin, ancestry, age, sex, marital status, status with respect to public assistance, and/or disability. This requirement shall apply to, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. There shall be posted in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, national origin, ancestry, age, sex, marital status, status with respect to public assistance, and/or disability.

(B) No person in the United States shall, on the grounds of race, color, creed, religion, national origin, age, sex, marital status, status with respect to public assistance, and/or disability, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Contract. The Contractor and each employer will comply with all requirements imposed by or pursuant to the regulations of the Federal Agency effectuating Title VI of the Civil Rights Act of 1966. The Contractor will note this requirement in all solicitations or advertisements for employees. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(C) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of the Contractor's commitments under these provisions, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(D) The Contractor hereby agrees that he will incorporate into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained pursuant to this Contract, the equal opportunity clause which is a part of these Contract Documents.

(E) The Contractor further agrees that he will be bound by the equal opportunity clause and other provisions of 41 CFR Chapter 60, with respect to his own employment practices when he participates in federally assisted construction work: **Provided:** That of the Contractor so participating is a State or Local Government, the above equal opportunity clause is not applicable to any agency, instrumentality, or subdivision of such government which does not participate in work on or under the Contract. Also, the Contractor will make his files available to inspection by appropriate government agencies and shall furnish those reports as may be required by said agencies.

(F) The Contractor agrees that he will assist and cooperate actively with the Federal Agency and the Secretary of Labor in obtaining the compliance of subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that he will furnish the Federal Agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that he will otherwise assist the Federal Agency in the discharge of its primary responsibility for securing compliance.

(G) The Contractor further agrees that he will refrain from entering into any contract or any contract modification subject to Executive Order 11246 of September 24, 1965, with a subcontractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order. In addition, the Contractor agrees that if he fails or refuses to comply with these undertakings, the City or the Federal Agency may take any or all of the following actions: Terminate or suspend in whole or in part this Contract; refrain from extending any further assistance to the Contractor under the Project with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such Contractor and refer the case to the Department of Justice for appropriate legal proceedings.

Affirmative Action - "Construction Contracts" over $10,000

Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity
(Executive Order 11246)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables	Goals for minority participation (percent)	Goals for female participation (percent)
From April 1, 1980 until revised	3.0	6.9

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3 (a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the City and to the Director of the Office of Federal Contract Compliance Programs; U.S. Department of Labor, ESA/OFCCP, 16th Floor, 230 South Dearborn Street, Chicago, Illinois, 60604, within 10 working days of award of any construction subcontract and/or subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the contractor and/or subcontractor; employer identification number; estimated dollar amount of the prime contract; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4. As used in this Notice, and in the Contract, the "covered area" is all work under a contract currently held with the City of Duluth, Minnesota.

Standard Federal Equal Employment Opportunity
Construction Contract Specifications (Executive Order 11246)

1. As used in these specifications:
   a) "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor; or any person to whom the Director delegates authority;
   b) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
   c) "Minority" includes:
      (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
      (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
      (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
      (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative action to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notices of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitments and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of officers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, creed, religion, national origin, sex, ancestry, age, marital status, status with respect to public assistance and/or disability.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails

to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

Affirmative Action for Handicapped Workers

(applies to contracts in excess of $2,500)

(A) The Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(B) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(C) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

(D) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(E) The Contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act of 1973, and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(F) The Contractor will include the provisions of this clause in every subcontract or purchase order of $2,500 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era

(applies to contracts in excess of $10,000)

(A) The Contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: Employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(B) The Contractor agrees that all suitable employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The Contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required.
State and local government agencies holding Federal contracts of $10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (D) and (E).

(C) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and non-veterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the Contractor from any requirements in Executive Orders of regulations regarding nondiscrimination in employment.

(D) The reports required by paragraph (B) of this clause shall include, but not be limited to, periodic reports which shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number of non-disabled veterans of the Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 1787. The Contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the contracting officer of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment and placement.

(E) Whenever the Contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these provisions, and has so

advised the State system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State system when it is no longer bound by this contract clause.

(F) This clause does not apply to the listing of employment openings which occur and are filled outside of the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(G) The provisions of paragraphs (B), (C), (D), and (E) of this clause do not apply to openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement for that opening.

(H) As used in this clause:

(1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: Production and non-production; plant and office; laborers and mechanics; supervisory and non-supervisory; technical; and executive, administrative, and professional openings as are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment. It does not include openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be for the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the Contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the Contractor proposes to fill from regularly established "recall" lists.

(4) "Openings which the Contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the Contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the Contractor and representatives of his employees.

(I) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(J) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

(K) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, provided by or through the contracting officer. Such notices shall state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

(L) The Contractor will notify each labor union representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of the Vietnam Era Veterans Readjustment Assistance Act, and is committed to take affirmative action to employ and advance qualified disabled veterans and veterans of the Vietnam era..

(M) The Contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

Section 12

Employment Opportunities - "HUD Section 3"

General

These requirements apply to the City of Duluth contracts receiving assistance under the U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program.

Type of Covered Projects

24CFR570.607 (b) of the HUD CDBG Program Regulations state in part "... that employment and other economic opportunities arising in connection with housing rehabilitation, housing construction, or other public construction projects shall to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations be given to low- and very low-income persons.

Thresholds

In accordance with the provisions of 24CFR135.3(a) (3) (ii) (A), the requirements of this Section apply to those recipients as defined at 24CFR135.5 when the amount of this contract exceeds $200,000.

In addition, in accordance with the provisions of 24CFR135.3 (a) (3) (ii) (B), the requirements of this Section apply to any contractor or subcontractor whose contract exceeds $100,000 as a result of assistance provided under this contract.

Requirements (Section 3 Clause)

(A) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

(B) The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

(C) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement, or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The

notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

(D) The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

(E) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligation under 24 CFR part 135.

(F) Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.

Section 13

Federal Requirements for Minority/Women Business Enterprises Contract Guidance - MPFA

General

Municipalities that receive loan funding must comply with Federal requirements concerning utilization of Minority Business Enterprises (MBE) and Women's Business Enterprises (WBE). These requirements are designed to encourage the prime contractors to utilize MBEs and WBEs whenever procurement opportunities occur.

Regulation

40 C.F.R. Section 35.3145(d) Application of other Federal Authorities, M/WBE Requirements
Executive Orders No. 11625, 12138 and 12432 - Promoting the use of M/WBEs
Section 129 of Public Law 100-590 - Small Business Administration Reauthorization and Amendment Act of 1988
Regulations detailed in the EPA's *Cross-Cutting Federal Authorities - Clean Water Act State Revolving Fund Program and Safe Drinking Water Act State Revolving Fund Program*

Implementation

The "fair share" target percentage participation proposed for this project is 3.5 percent (3.5%) for MBE and 11.5 percent (11.5%) for WBE.

If the Contractor intends to let any subcontractors for a portion of the work, the Contractor shall take affirmative steps to assure that minority and women businesses are utilized when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

a) Include qualified minority businesses on solicitation lists.
b) Assure that minority businesses are solicited whenever they are potential sources.
c) When economically feasible, divide total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.
d) Where the requirement permits, establish delivery schedules, which will encourage participation by minority businesses.
e) Use the services and assistance of the Office of Minority Business Enterprise of the Department of Commerce.

The low bidder will be required to submit to the City of Duluth documentation of his good faith efforts to meet the targeted goals of utilizing MBEs and WBEs.

Section 14 - Forms

Minnesota Department of Transportation and City of Duluth, Minnesota funded certified payroll forms

- MnDOT Prime Contractor's-Subcontractor's Statement of Compliance form (12/2010)
  www.dot.state.mn.us/const/labor/forms.html
- Certified Payroll Forms
  http://www.dol.gov/forms/whd/wh347.pdf
  use front side only

U. S. Department of Housing and Urban Development and federal government funded certified payroll forms

- Statement of Compliance Form & Certified Payroll Forms
  http://www.dol.gov/forms/whd/wh347.pdf
  (use reverse side for Statement of Compliance form)
- MnDOT Prime Contractor's-Subcontractor's Statement of Compliance form (12/2010)
  www.dot.state.mn.us/const/labor/forms.html

Minnesota Department of Transportation Trucking Requirements

- Month End Trucking Report Form A and Form B
- Month End Trucking Report Statement of Compliance
- Definitions, instructions, forms:
  www.dot.state.mn.us/const/labor/forms.html

PROJECT LABOR AGREEMENT

NO STRIKE, NO LOCKOUT

PUBLIC SECTOR

CITY OF DULUTH

&

Vendor

Project name

Project No.

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AGREEMENT

This Project Labor Agreement (hereinafter, the "Agreement"), effective as of the date of attestation by the City Clerk, by and between the various contractors engaged in the construction of facilities to be known as the (Project). The parties to this Agreement are the Building and Construction Trades Council, on behalf of its affiliated Local Unions (hereinafter "Union" or "Unions"), the City of Duluth (hereinafter "Owner") and Contractor (hereinafter "Construction Manager/General Manager," "Contractor," and "Contractors").

It is understood by the parties to this Agreement that it is the policy of the Owner that the construction work covered by this Agreement shall be contracted to Contractors who agree to be bound by the terms of this Agreement. Therefore, the Union agrees that other Contractors may execute the Agreement for the purpose of covering that work. The Construction Manager/General Contractor shall monitor compliance with this Agreement by all Contractors who through their execution of this Agreement, together with their subcontractors, have become bound hereto.

The term "Contractor" shall include all Contractors and subcontractors of whatever tier engaged in on-site construction work within the scope of this Agreement.

The Union and all signatory Contractors agree to abide by the terms and conditions contained in this Agreement with respect to the administration of the Agreement by the Owner and the performance of the construction by the Contractor of the Project. This Agreement represents the complete understanding of the parties, and it is further understood that no Contractor party is required to sign any other agreement as a condition of performing work within the scope of this Agreement. No practice, understanding or agreement between a Contractor and a Union party which is not explicitly set forth in this Agreement shall be binding on any other party unless endorsed in writing by the Project Contractor.

ARTICLE I - PURPOSE

The (Project), an undertaking of the Owner, is a public project which will employ numbers of skilled and unskilled workers. Construction of the Project will entail utilization of the construction industry in an area having multiple labor contracts and employer associations. Consequently, conflicts within labor-management relations could cause delay or disruption of the efficient completion of the .project unless maximum cooperation of all segments of the construction industry is obtained. This Agreement is to establish as the minimum standards on the Project the hours and working conditions as those prevailing for the largest number of workers engaged in the same classes of work within the area.

It is in the public interest that the Project progress and be completed in an expeditious and efficient manner, free of disruption or delay of any kind. Therefore, it is essential to secure optimum productivity and to eliminate any delays in the work. In recognition of the special needs of this Project and to maintain a spirit of harmony, labor-management peace and stability during the term of this Project Labor Agreement, the parties agree to establish effective and binding methods for the settlement of all misunderstandings, disputes or grievances which may arise. Therefore, the Unions agree not to engage in any strike, slowdown or interruption of work and the Contractor agrees not to engage in any lockout.

ARTICLE II - SCOPE OF THE AGREEMENT

Section 1. This Agreement, hereinafter designated as the "Project Labor Agreement" or "Agreement," shall apply and is limited to all construction work included in all Bid Categories for the (Project), under the direction of the signatory Contractors and performed by those Contractor(s) of whatever tier which have contracts awarded for such work on and after the effective date of this Agreement with regard to the Project.

Such Project is generally described as the construction of: Project

Section 2. It is agreed that all direct subcontractors of a Contractor, of whatever tier, who have been awarded contracts for work covered by this Agreement on or after the effective date of this Agreement shall be required to accept and be bound by the terms and conditions of the Project Labor Agreement.

Section 3. The provisions of this Project Labor Agreement shall apply to all craft employees represented by any Union listed in Schedule A hereto attached and shall not apply to other field personnel or managerial or supervisory employees as defined by the National Labor Relations Act.

Section 4. All employees covered by this Agreement shall be classified in accordance with work performed and paid the base hourly wage rates for those classifications as specified in the attached Schedule A.

Section 5. The Contractors agree to pay contributions to the established employee benefit funds in the amounts designated in the appropriate Schedule A.

Contractors that are not signatory to a collective bargaining agreement beyond the scope of this Agreement ("PLA contractor") may select to participate in the legally established industry health reimbursement arrangement ("HRA") plan, in lieu of contributing to the respective bona fide benefit funds as designated in Schedule A. The amount of the contribution is based on the difference between the contribution amount of the bona fide Schedule A benefit funds and the cost of the PLA contractor's bona fide non-discretionary plans. Contributions must be made on behalf of named employees. Participating contractors will submit to the Trustees of the HRA trust and plan a copy of their plan, summary plan description, and the premium structure for workers covered under the PLA contractor's bona fide, non-discretionary plans. The value of the PLA contractor's benefit plans are subject to confirmation by the Trustees of the HRA trust and plan. This may include an independent audit according to a policy as established by the Trustees. Contractors are required to submit certified payroll reports to the Trustees or authorized administrator in order to confirm compliance with the terms of the HRA trust and plan.

The Contractors adopt and agree to be bound by the written terms of the legally-established Trust Agreements (or in lieu thereof, the aforementioned HRA plan and trust including any policies) specifying the detailed basis on which payments are to be made into, and benefits paid out of, such Trust Funds. The Contractors authorize the parties to such Trust Agreements to appoint trustees and successor trustees to administer the Trust funds and hereby ratify and accept the Trustees so appointed as if made by the Contractors.

Section 6. In the event of any conflict between any provisions of this Agreement and in the Local Area Agreements, the terms of this Agreement will be applied. In other words, where a subject covered by the provisions of this Project Labor Agreement is also covered by the Local Area Agreement the provisions of this Project Labor Agreement shall prevail. Where a subject is covered by the Local Area Agreement and not covered by this Project Labor Agreement, the Local Area Agreement provisions shall prevail.

Section 7. This Agreement shall only be binding on the signatory parties hereto and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such party.

Section 8. This Agreement shall be limited to work historically recognized as construction work. Nothing contained herein shall be construed to prohibit, restrict, or interfere with the performance of any other operation, work or function which may occur in or around the Project site or be associated with the development of the Project, or with the ongoing operations of the Owner.

Section 9. It is understood that the liability of any Contractor and the liability of the separate Unions under this Agreement shall be several and not joint. The Union agrees that this Agreement does not have the effect of creating any joint employment status between or among Owner and any Contractor.

Section 10. All workers delivering fill, sand, gravel, crushed rock, transit/concrete mix, asphalt or other similar materials and all workers removing any materials from the construction site as required by the specifications are subject to the provisions of the Minnesota state

prevailing wage law and are entitled to the appropriate area standard wage. For purposes of this contract, such materials are for specified future use and per Minnesota state prevailing wage law delivery and pickup of the above-listed materials constitutes incorporation.

ARTICLE III - UNION RECOGNITION AND REPRESENTATION

Section 1. The Contractor recognizes the Union as the sole and exclusive bargaining representative of all craft employees working on facilities within the scope of this Agreement.

Section 2. Authorized representatives of the Union shall have access to the Project, provided they do not interfere with the work of employees and further provided that such representatives fully comply with the posted visitor and security and safety rules of the Project.

ARTICLE IV - LABOR HARMONY CLAUSE

The contractor shall furnish labor that can work in harmony with all other elements of labor employed on that (Project) and shall submit a labor harmony plan to demonstrate how this will be done. “Harmony” shall include the provision of labor that will not, either directly or indirectly, cause or give rise to any work disruptions, slow downs, picketing, stoppages, or any violence or harm to any person or property while performing any work, or activities incidental thereto at the (project). The labor harmony plan should include the company's labor management policies, collective bargaining agreements if any and their expiration dates, past labor relations history, a listing of activities anticipated under this contract that may potentially cause friction with on-site workers, and procedures the company will undertake to eliminate this friction.

The contractor agrees that it shall require every lower-tier subcontractor to provide labor that will work in harmony with all other elements of labor employed in the work, and will include the provisions contained in the paragraph above, in every lower-tier subcontract let for work under this contract.

The requirement to provide labor that can work in harmony with all other elements of labor employed in the work throughout the contract performance is a material element of this contract. Failure by the contractor or any of its lower tier subcontractors to comply with this requirement shall be deemed a material breach of the contract which will subject the contractor to all rights and remedies the city of Duluth may have, including without limitation the right to terminate the contract.

ARTICLE V - WORK STOPPAGES AND LOCKOUTS

Section 1. There shall be no strike, picketing, work stoppages, slowdowns or other disruptive, activity for any reason by the Union or employees against any Contractor covered under this Agreement, and there shall be no lockout by the Contractor. Failure of any Union or employee to cross any picket line established by any union, signatory or non-signatory, or any other organization, at or in proximity to the Project site is a violation of this Article.

Section 2. Any party alleging a breach of Section 1, of Article IV shall have the right to petition a court for temporary and permanent injunctive relief. The moving party need not show the existence of irreparable harm, and shall be required to post bond only to secure payment of court costs and attorney fees as may be awarded by the court.

ARTICLE VI - DISPUTES AND GRIEVANCES

Section 1. This Agreement is intended to provide close cooperation between management and labor. The Construction Manager/General Contractor and the Building and Construction Trades Council shall each assign a representative to this Project for the purpose of assisting the Local Unions, together with the Contractor, to complete the construction of the Project economically, efficiently, continuously and without interruption, delays or work stoppages.

Each Contractor shall hold a pre-job conference with the Union and Construction Manager/General Contractor to clear up any project question and work assignments in which there is thought to be a difference in opinion. Every effort will be made to hold such conference well in advance of actual work performance.

Section 2. The Contractor, Union, and employees collectively and individually, realize the importance to all parties to maintain continuous and uninterrupted performance of the work of the Project, and agree to resolve disputes over grievances in accordance with the arbitration provisions set forth in the Local Area Agreements in effect with the Unions listed in Schedule A attached hereto.

ARTICLE VII - JURISDICTIONAL DISPUTES

Section 1. There will be no strikes, work stoppages, slowdowns, or other disruptive activity arising out of any jurisdictional dispute. Pending the resolution of the dispute, the work shall continue uninterrupted as assigned by the Contractor.

Section 2. Building construction work shall be assigned by the Contractor in accordance with the procedural rules of the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (hereinafter the "Plan"). Any jurisdictional dispute over the Contractor's assignment of work shall be settled in accordance with the provisions of the Plan.

Section 3. Where a jurisdictional dispute involves the International Brotherhood of Teamsters, it shall be referred for resolution to that International Union and the disputing International Union. The resolution of the dispute shall be reduced to writing, signed by the authorized representative of the International Unions and the Contractor. The assignments made by the Contractor shall be followed until such time as the dispute is resolved in accordance with this Section.

ARTICLE VIII - NO DISCRIMINATION

Section 1. The Contractor and Union agree that they will not discriminate against any employee or applicant for employment because of his or her membership or nonmembership in a Union or based upon race, color, religion, sex, national origin or age in any manner prohibited by law or regulation.

Section 2. Any complaints regarding application of the provisions of Section 1 should be brought to the immediate attention of the involved Contractor for consideration and resolution.

Section 3. The use of the masculine or feminine gender in this Agreement shall be construed as including both genders.

ARTICLE IX - SAVINGS AND SEPARABILITY

It is not the intention of the parties to violate any laws governing the subject matter of this Agreement. The parties hereto agree that in the event any provisions of the Agreement are finally held determined to be illegal or void as being in contravention of any applicable law, the remainder of the Agreement shall remain in full force and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of this Agreement. Further, the contractor and Union agree that if and when any and all provisions of this Agreement are finally held or determined to be illegal or void by Court of competent jurisdiction, the parties will promptly enter into negotiations concerning the substance affected by such decision for the purpose of achieving conformity with the requirements of an applicable law and the intent of the parties hereto.

ARTICLE X DURATION OF THE AGREEMENT

The Project Labor Agreement shall be effective as of the date of attestation by the City Clerk, and shall continue in effect for the duration of the Project construction work described in Article II hereof Construction of any phase, portion, section or segment of the project shall be deemed complete when such phase, portion, section or segment has been turned over to the Owner and has received the final acceptance from the Owner's representative.

Since there are provisions herein for no strikes or lockouts in the event any changes are negotiated and implemented under a Local Area Agreement during the term of this Agreement, the Contractor agrees that, except as specified herein, such changes shall be recognized and shall apply retroactively to the termination date in the particular Local Agreement involved. Each Contractor which has a Local Agreement with a Union at the time that its contract at the project

commences shall continue it in effect with each said Union so long as the Contractor remains on the project. In the event any such Local Area Agreement expires, the Contractor shall abide by all of the terms of the expired Local Agreement until agreement is reached on a new Local Agreement, with any changes being subject to the provisions of this Agreement.

The Union agrees that there will be no strikes, work stoppages, sympathy actions, picketing, slowdowns or other disruptive activity affecting the Project by any Union involved in the negotiation of a Local Area Agreement nor shall there be any lockout on this Project affecting the Union during the course of such negotiations.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the date of attestation shown below.

DULUTH BUILDING AND
CONSTRUCTION TRADES COUNCIL

By: _____

Its _____
(Printed Name/Title)

Date: _____

VENDOR

By: _____

Its _____
(Printed Name/Title)

Date: _____

CITY OF DULUTH

By:_____
Mayor

Attest:

_____
City Clerk

Date: _____

_____
City Auditor

Date: _____

_____
Assistant City Attorney

Date: _____

SCHEDULE "A"

A1 Asbestos Workers Local 49
A-2 Boilermakers Local 647
A-3 BAC Local 1 Chapter 3 Duluth & Iron Range
A-4 Carpenters Local 361
A-5 Cements Masons/Plasterers Local 633
A-6 Elevator Constructors Local 9
A-7 IBEW Local 242
A-8 Iron Workers Local 512
A-9 Laborers Local 1091
A-10 Millwrights & Machinery Erectors Local 1348
A-11 Operating Engineers Local 49
A-12 Painters & Allied Trades Local 106
A-13 Plumbers & Fitters Local 11
A-14 Roofers Local 96
A-15 Sheet Metal Workers Local 10
A-16 Sprinkler Fitters Local 669
A-17 Teamsters Local 346

General Decision Number: MN160105 07/22/2016 MN105

Superseded General Decision Number: MN20150105

State: Minnesota

Construction Type: Heavy

County: St Louis County in Minnesota.

HEAVY CONSTRUCTION PROJECTS

Note: Under Executive Order (EO) 13658, an hourly minimum wage of $10.15 for calendar year 2016 applies to all contracts subject to the Davis-Bacon Act for which the solicitation was issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.15 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2016. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/08/2016
1	03/04/2016
2	04/15/2016
3	06/17/2016
4	07/22/2016

BOIL0647-004 01/01/2013

	Rates	Fringes
BOILERMAKER.....	$ 32.40	25.37

CARP0361-020 05/01/2015

ST LOUIS COUNTY (Southern 1/3 including Cotton, Floodwood, Fond Du Lac, and Proctor)

	Rates	Fringes
CARPENTER (Including Form Work).....	$ 34.11	17.08

CARP0361-021 05/01/2015

ST LOUIS (Duluth)

	Rates	Fringes
CARPENTER (Including Form Work)	$ 34.11	17.08

CARP0606-010 05/01/2015

ST LOUIS COUNTY (Northeast 2/3 including Cook, Cusson, Ely; and Western part including Chisholm, Greaney, and Orr)

	Rates	Fringes
CARPENTER (Including Form Work)	$ 34.11	17.08

ELEC0242-012 05/31/2015

ST. LOUIS (South part bounded on the north by the north line of Kelsey Township extended east & west)

	Rates	Fringes
ELECTRICIAN	$ 33.90	24.47

ELEC0294-006 05/29/2016

ST. LOUIS (North part bounded on the south by the south line of Ellsburg Township, extended east & west)

	Rates	Fringes
ELECTRICIAN	$ 35.60	71.72%

ENGI0049-064 05/01/2016

	Rates	Fringes
OPERATOR: Power Equipment		
Group 2	$ 34.39	18.90
Group 3	$ 33.84	18.90
Group 4	$ 33.54	18.90
Group 5	$ 30.50	18.90
Group 6	$ 29.29	18.90

POWER EQUIPMENT OPERATOR CLASSIFICATIONS

GROUP 2: Crane with over 135' Boom, excluding jib; Dragline & Hydraulic Backhoe with shovel-type controls, 3 cubic yards and over; Grader/Blade finishing earthwork and bituminous.

GROUP 3: Dragline & Hydraulic Backhoe with shovel-type controls up to 3 cubic yards; Loader 5 cu yd and over; Mechanic; Tandem Scraper; Truck Crane; Crawler Crane

GROUP 4: Bituminous Roller 8 tons & over; Crusher/Crushing Plant; Drill Rig; Elevating Grader; Loader over 1 cu yd; Grader; Pump; Scraper up; to 32 cu yd; Farm Tractor with Backhoe attachment; Skid Steer Loader over 1 cu yd with Backhoe attachment; Bulldozer over 50 hp.

GROUP 5: Bituminous Roller under 8 tons; Bituminous Rubber Tire Roller; Loader up to 1 cu yd; Bulldozer 50 hp or less.

GROUP 6: Oiler; Self-Propelled Vibrating Packer 35 hp and over.

CRANE OVER 135' BOOM, EXCLUDING JIB - $ .25 PREMIUM;
CRANE OVER 200' BOOM, EXCLUDING JIB - $ .50 PREMIUM

UNDERGROUND WORK:
UNNELS, SHAFTS, ETC. - $ .25 PREMIUM
UNDER AIR PRESSURE - $ .50 PREMIUM

HAZARDOUS WASTE PROJECTS (PPE Required):
LEVEL A - $1.25 PREMIUM
LEVEL B - $ .90 PREMIUM
LEVEL C - $ .60 PREMIUM

IRON0512-028 05/01/2015

	Rates	Fringes
IRONWORKER, STRUCTURAL AND REINFORCING	$ 31.04	23.45

LABO1091-006 05/01/2016

ST LOUIS (South of T. 55 N)

	Rates	Fringes
LABORERS		
(1) Common or General	$ 29.13	17.12
(2) Mason Tender Cement/Concrete	$ 29.33	17.12
(6) Pipe Layer	$ 31.63	17.12

LABO1091-007 05/01/2016

SOUTHERN ST. LOUIS COUNTY

	Rates	Fringes

LABORER
Common or General (Natural
Gas Pipeline only).....$ 29.13 17.12

LABO1097-002 05/01/2014

NORTHERN ST. LOUIS COUNTY

Rates Fringes

LABORER
Common or General (Natural
Gas Pipeline only).....$ 25.02 18.16

LABO1097-005 05/01/2014

ST LOUIS (North of T. 55 N)

Rates Fringes

LABORERS
(1) Common or General.....$ 25.02 18.16
(2) Mason Tender
Cement/Concrete.....$ 25.22 18.16
(6) Pipe Layer.....$ 27.52 18.16
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* PLAS0633-036 05/01/2016

ST. LOUIS COUNTY (North of T 55N)

Rates Fringes

CEMENT MASON/CONCRETE FINISHER...$ 33.95 17.63
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* PLAS0633-039 05/01/2016

ST. LOUIS COUNTY (South of T 55N)

Rates Fringes

CEMENT MASON/CONCRETE FINISHER...$ 33.95 17.63

TEAM0160-018 05/01/2015

Rates Fringes

TRUCK DRIVER (DUMP)
(1) Articulated Dump Truck..$ 28.70 15.20
(2) 3 Axles/4 Axles; 5
Axles receive $0.30
additional per hour.....$ 28.15 15.20
(3) Tandem Axles; & Single
Axles.....$ 28.05 15.20

SUMN2009-072 09/28/2009

	Rates	Fringes
LABORER: Landscape.....	$ 12.88	4.61

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

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

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

Union Rate Identifiers

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

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

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

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

Union Average Rate Identifiers

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

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

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the

Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

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

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

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

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

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

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

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

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

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END OF GENERAL DECISION

MINNESOTA DEPARTMENT OF LABOR AND INDUSTRY PREVAILING WAGES FOR STATE FUNDED CONSTRUCTION PROJECTS

THIS NOTICE MUST BE POSTED ON THE JOBSITE IN A CONSPICUOUS PLACE

Construction Type: Highway and Heavy

Region Number: 01

Counties within region:

- CARLTON-09
- COOK-16
- ITASCA-31
- KOOCHICHING-36
- LAKE-38
- PINE-58
- ST. LOUIS-69

Effective: 2015-10-12 Revised: 2016-04-25

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.

Violations should be reported to:

Department of Transportation
Office of Construction
Transportation Building MS650
John Ireland Blvd
St. Paul, MN 55155
(651) 366-4209

Refer questions concerning the prevailing wage rates 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

LABOR CODE AND CLASS

		EFFECT DATE	BASIC RATE	FRINGE RATE	TOTAL RATE
LABORERS (101 - 112) (SPECIAL CRAFTS 701 - 730)					
101	LABORER, COMMON (GENERAL LABOR WORK)	2015-10-12	28.11	16.57	44.68
		2016-05-01	29.23	17.02	46.25
102	LABORER, SKILLED (ASSISTING SKILLED CRAFT JOURNEYMAN)	2015-10-12	28.11	16.57	44.68
		2016-05-01	29.23	17.02	46.25
103	LABORER, LANDSCAPING (GARDENER, SOD LAYER AND NURSERY OPERATOR)	2015-10-12	27.64	12.64	40.28
104	FLAG PERSON	2015-10-12	28.11	16.57	44.68
		2016-05-01	29.23	17.02	46.25
105	WATCH PERSON	2015-10-12	24.56	16.32	40.88
		2016-05-01	25.68	16.77	42.45
106	BLASTER	2015-10-12	28.89	15.33	44.22
107	PIPELAYER (WATER, SEWER AND GAS)	2015-10-12	30.61	16.57	47.18
		2016-05-01	31.73	17.02	48.75
108	TUNNEL MINER	2015-10-12	28.81	16.57	45.38
		2016-05-01	29.93	17.02	46.95
109	UNDERGROUND AND OPEN DITCH LABORER (EIGHT FEET BELOW STARTING GRADE LEVEL)	2015-10-12	28.81	16.57	45.38
		2016-05-01	29.93	17.02	46.95
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;	2015-10-12	28.11	16.57	44.68

	PERFORM AND CHECK CALCULATIONS; REVIEW AND UNDERSTAND CONSTRUCTION PLANS AND LAND SURVEY MATERIALS). THIS CLASSIFICATION DOES NOT APPLY TO THE WORK PERFORMED ON A PREVAILING WAGE PROJECT BY A LAND SURVEYOR WHO IS LICENSED PURSUANT TO MINNESOTA STATUTES, SECTIONS 326.02 TO 326.15.				
		2016-05-01	29.23	17.02	46.25
111	TRAFFIC CONTROL PERSON (TEMPORARY SIGNAGE)	2015-10-12	28.11	16.57	44.68
		2016-05-01	29.23	17.02	46.25
112	QUALITY CONTROL TESTER (FIELD AND COVERED OFF-SITE FACILITIES; TESTING OF AGGREGATE, ASPHALT, AND CONCRETE MATERIALS); LIMITED TO MN DOT HIGHWAY AND HEAVY CONSTRUCTION PROJECTS WHERE THE MN DOT HAS RETAINED QUALITY ASSURANCE PROFESSIONALS TO REVIEW AND INTERPRET THE RESULTS OF QUALITY CONTROL TESTERS. SERVICES PROVIDED BY THE CONTRACTOR.	2015-10-12	21.40	13.51	34.91

SPECIAL EQUIPMENT (201 - 204)

201	ARTICULATED HAULER	2015-10-12	32.93	17.90	50.83
		2016-05-01	33.54	18.90	52.44
202	BOOM TRUCK	2015-10-12	32.93	17.90	50.83
		2016-05-01	33.54	18.90	52.44
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	2015-10-12	20.01	13.54	33.55
		2016-05-01	21.17	13.99	35.16
204	OFF-ROAD TRUCK	2015-10-12	31.37	16.70	48.07
205		2015-10-12	28.36	16.36	44.72

PAVEMENT MARKING OR MARKING REMOVAL EQUIPMENT (ONE OR TWO PERSON OPERATORS); SELF-PROPELLED TRUCK OR TRAILER MOUNTED UNITS.

HIGHWAY/HEAVY POWER EQUIPMENT OPERATOR

GROUP 2	2015-10-12	33.78	17.90	51.68
	2016-05-01	34.39	18.90	53.29

302 HELICOPTER PILOT (HIGHWAY AND HEAVY ONLY)

303 CONCRETE PUMP (HIGHWAY AND HEAVY ONLY)

304 ALL CRANES WITH OVER 135-FOOT BOOM, EXCLUDING JIB (HIGHWAY AND HEAVY ONLY)

305 DRAGLINE, CRAWLER, HYDRAULIC BACKHOE (TRACK OR WHEEL MOUNTED) AND/OR OTHER SIMILAR EQUIPMENT WITH SHOVEL-TYPE CONTROLS THREE CUBIC YARDS AND OVER MANUFACTURER.S RATED CAPACITY INCLUDING ALL ATTACHMENTS. (HIGHWAY AND HEAVY ONLY)

306 GRADER OR MOTOR PATROL

307 PILE DRIVING (HIGHWAY AND HEAVY ONLY)

308 TUGBOAT 100 H.P. AND OVER WHEN LICENSE REQUIRED (HIGHWAY AND HEAVY ONLY)

GROUP 3	2015-10-12	33.23	17.90	51.13
	2016-05-01	33.84	18.90	52.74

309 ASPHALT BITUMINOUS STABILIZER PLANT

310 CABLEWAY

311 CONCRETE MIXER, STATIONARY PLANT (HIGHWAY AND HEAVY ONLY)

312 DERRICK (GUY OR STIFFLEG)(POWER)(SKIDS OR STATIONARY) (HIGHWAY AND HEAVY ONLY)

313 DRAGLINE, CRAWLER, HYDRAULIC BACKHOE (TRACK OR WHEEL MOUNTED) AND/OR SIMILAR EQUIPMENT WITH SHOVEL-TYPE CONTROLS, UP TO THREE CUBIC YARDS MANUFACTURER.S RATED CAPACITY INCLUDING ALL ATTACHMENTS (HIGHWAY AND HEAVY ONLY)

314 DREDGE OR ENGINEERS, DREDGE (POWER) AND ENGINEER

315 FRONT END LOADER, FIVE CUBIC YARDS AND OVER INCLUDING ATTACHMENTS. (HIGHWAY AND HEAVY ONLY)

316 LOCOMOTIVE CRANE OPERATOR

317 MIXER (PAVING) CONCRETE PAVING, ROAD MOLE, INCLUDING MUCKING OPERATIONS, CONWAY OR SIMILAR TYPE

318 MECHANIC . WELDER ON POWER EQUIPMENT (HIGHWAY AND HEAVY ONLY)

319 TRACTOR . BOOM TYPE (HIGHWAY AND HEAVY ONLY)

320 TANDEM SCRAPER

321 TRUCK CRANE . CRAWLER CRANE (HIGHWAY AND HEAVY ONLY)

322 TUGBOAT 100 H.P AND OVER (HIGHWAY AND HEAVY ONLY)

GROUP 4	2015-10-12	32.93	17.90	50.83
	2016-05-01	33.54	18.90	52.44

323 AIR TRACK ROCK DRILL

324 AUTOMATIC ROAD MACHINE (CMI OR SIMILAR) (HIGHWAY AND HEAVY ONLY)

325 BACKFILLER OPERATOR

326 CONCRETE BATCH PLANT OPERATOR (HIGHWAY AND HEAVY ONLY)

327 BITUMINOUS ROLLERS, RUBBER TIRED OR STEEL DRUMMED (EIGHT TONS AND OVER)

328 BITUMINOUS SPREADER AND FINISHING MACHINES (POWER), INCLUDING PAVERS, MACRO SURFACING AND MICRO SURFACING, OR SIMILAR TYPES (OPERATOR AND SCREED PERSON)

329 BROKK OR R.T.C. REMOTE CONTROL OR SIMILAR TYPE WITH ALL ATTACHMENTS

330 CAT CHALLENGER TRACTORS OR SIMILAR TYPES PULLING ROCK WAGONS, BULLDOZERS AND SCRAPERS

331 CHIP HARVESTER AND TREE CUTTER

332 CONCRETE DISTRIBUTOR AND SPREADER FINISHING MACHINE, LONGITUDINAL FLOAT, JOINT MACHINE, AND SPRAY MACHINE

333 CONCRETE MIXER ON JOBSITE (HIGHWAY AND HEAVY ONLY)

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)

339 DRILL RIGS, HEAVY ROTARY OR CHURN OR CABLE DRILL (HIGHWAY AND HEAVY ONLY)

340 DUAL TRACTOR

341 ELEVATING GRADER

342 FORK LIFT OR STRADDLE CARRIER (HIGHWAY AND HEAVY ONLY)

343 FORK LIFT OR LUMBER STACKER (HIGHWAY AND HEAVY ONLY)

344 FRONT END, SKID STEER OVER 1 TO 5 C YD

345 GPS REMOTE OPERATING OF EQUIPMENT

346 HOIST ENGINEER (POWER) (HIGHWAY AND HEAVY ONLY)

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

351 MULTIPLE MACHINES, SUCH AS AIR COMPRESSORS, WELDING MACHINES, GENERATORS, PUMPS (HIGHWAY AND HEAVY ONLY)

352 PAVEMENT BREAKER OR TAMPING MACHINE (POWER DRIVEN) MIGHTY MITE OR SIMILAR TYPE

353 PICKUP SWEEPER, ONE CUBIC YARD AND OVER HOPPER CAPACITY(HIGHWAY AND HEAVY ONLY)

354 PIPELINE WRAPPING, CLEANING OR BENDING MACHINE

355 POWER PLANT ENGINEER, 100 KWH AND OVER (HIGHWAY AND HEAVY ONLY)

356 POWER ACTUATED HORIZONTAL BORING MACHINE, OVER SIX INCHES

357 PUGMILL

358 PUMPCRETE (HIGHWAY AND HEAVY ONLY)

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

364 TRACTOR, BULLDOZER (HIGHWAY AND HEAVY ONLY)

365 TRACTOR, WHEEL TYPE, OVER 50 H.P. WITH PTO UNRELATED TO LANDSCAPING (HIGHWAY AND HEAVY ONLY)

366 TRENCHING MACHINE (SEWER, WATER, GAS) EXCLUDES WALK BEHIND TRENCHER (HIGHWAY AND HEAVY ONLY)

367 TUB GRINDER, MORBARK, OR SIMILAR TYPE

368 WELL POINT DISMANTLING OR INSTALLATION (HIGHWAY AND HEAVY ONLY)

GROUP 5	2015-10-12	29.89	17.90	47.79
	2016-05-01	30.50	18.90	49.40

369 AIR COMPRESSOR, 600 CFM OR OVER (HIGHWAY AND HEAVY ONLY)

370 BITUMINOUS ROLLER (UNDER EIGHT TONS)

371 CONCRETE SAW (MULTIPLE BLADE) (POWER OPERATED)

372 FORM TRENCH DIGGER (POWER)

373 FRONT END, SKID STEER UP TO 1C YD

374 GUNITE GUNALL (HIGHWAY AND HEAVY ONLY)

375 HYDRAULIC LOG SPLITTER

376 LOADER (BARBER GREENE OR SIMILAR TYPE)

377 POST HOLE DRIVING MACHINE/POST HOLE AUGER

378 POWER ACTUATED AUGER AND BORING MACHINE

379 POWER ACTUATED JACK

380 PUMP (HIGHWAY AND HEAVY ONLY)

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	2015-10-12	28.68	17.90	46.58
	2016-05-01	29.29	18.90	48.19

387 CAT, CHALLENGER, OR SIMILAR TYPE OF TRACTORS, WHEN PULLING DISK OR ROLLER

388 CONVEYOR (HIGHWAY AND HEAVY ONLY)

389 DREDGE DECK HAND

390 FIRE PERSON OR TANK CAR HEATER (HIGHWAY AND HEAVY ONLY)

391 GRAVEL SCREENING PLANT (PORTABLE NOT CRUSHING OR WASHING)

392 GREASER (TRACTOR) (HIGHWAY AND HEAVY ONLY)

393 LEVER PERSON

394 OILER (POWER SHOVEL, CRANE, TRUCK CRANE, DRAGLINE, CRUSHERS, AND MILLING MACHINES, OR OTHER SIMILAR HEAVY EQUIPMENT) (HIGHWAY AND HEAVY ONLY)

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

TRUCK DRIVERS

GROUP 1	2015-10-12	28.70	15.20	43.90
	2016-05-01	30.15	15.20	45.35

601 MECHANIC . WELDER

602 TRACTOR TRAILER DRIVER

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

GROUP 2	2015-10-12	26.30	14.40	40.70

604 FOUR OR MORE AXLE UNIT, STRAIGHT BODY TRUCK

GROUP 3	2015-10-12	26.20	14.40	40.60
605 BITUMINOUS DISTRIBUTOR DRIVER				
606 BITUMINOUS DISTRIBUTOR (ONE PERSON OPERATION)				
607 THREE AXLE UNITS				
GROUP 4	2015-10-12	27.82	17.20	45.02
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	2015-10-12	39.31	16.20	55.51
	2016-06-06	41.26	15.80	57.06
702 BOILERMAKERS	2015-10-12	34.15	26.37	60.52
	2016-01-01	35.55	26.52	62.07
703 BRICKLAYERS	2015-10-12	32.87	20.96	53.83
704 CARPENTERS	2015-10-12	34.11	17.08	51.19
	2016-05-01	35.65	17.08	52.73
705 CARPET LAYERS (LINOLEUM)	2015-10-12	32.13	12.85	44.98
706 CEMENT MASONS	2015-10-12	33.70	17.38	51.08
	2016-05-01	34.20	17.38	51.58
707 ELECTRICIANS	2015-10-12	33.90	24.13	58.03

		2016-05-29	35.01	24.62	59.63
711	GROUND PERSON	2015-10-12	27.44	13.28	40.72
		2016-04-04	28.26	13.92	42.18
712	IRONWORKERS	2015-10-12	31.04	23.45	54.49
713	LINEMAN	2015-10-12	32.27	14.11	46.38
714	MILLWRIGHT	2015-10-12	36.28	15.33	51.61
		2016-05-01	37.83	15.33	53.16
715	PAINTERS (INCLUDING HAND BRUSHED, HAND SPRAYED, AND THE TAPING OF PAVEMENT MARKINGS)	2015-10-12	26.66	18.77	45.43
		2016-05-02	28.01	18.77	46.78
716	PILEDRIVER (INCLUDING VIBRATORY DRIVER OR EXTRACTOR FOR PILING AND SHEETING OPERATIONS)	2015-10-12	34.11	17.08	51.19
		2016-05-01	35.65	17.08	52.73
717	PIPEFITTERS . STEAMFITTERS	2015-10-12	40.95	17.01	57.96
719	PLUMBERS	2015-10-12	40.25	17.71	57.96
		2016-05-01	41.80	17.71	59.51
721	SHEET METAL WORKERS	2015-10-12	30.52	25.36	55.88
723	TERRAZZO WORKERS	FOR RATE CALL 651-284-5091 OR EMAIL DLI.PREVWAGE@STATE.MN.US			
724	TILE SETTERS	FOR RATE CALL 651-284-5091 OR EMAIL DLI.PREVWAGE@STATE.MN.US			
725	TILE FINISHERS	FOR RATE CALL 651-284-5091 OR EMAIL			

		DLI.PREVWAGE@STATE.MN.US			
727	WIRING SYSTEM TECHNICIAN	2015-10-12	36.00	14.43	50.43
		2016-07-01	36.90	14.43	51.33
728	WIRING SYSTEMS INSTALLER	2015-10-12	25.21	12.02	37.23
		2016-07-01	25.84	12.02	37.86
729	ASBESTOS ABATEMENT WORKER	2015-10-12	28.50	16.88	45.38
		2016-01-01	29.30	17.33	46.63
730	SIGN ERECTOR	FOR RATE CALL 651-284-5091 OR EMAIL DLI.PREVWAGE@STATE.MN.US			