



CITY OF DULUTH
BEST VALUE PROCUREMENT
REQUEST FOR PROPOSALS FOR
SPIRIT MOUNTAIN LIFT REPLACEMENT

RFP NUMBER 25-AA03

ISSUED 12/26/2024

PROPOSALS DUE 3:00 PM, WEDNESDAY, JANUARY 8, 2025

SUBMIT TO

CITY OF DULUTH
ATTN: PURCHASING DIVISION
CITY HALL, ROOM 120
411 WEST 1ST STREET
DULUTH, MN 55802

PART I - GENERAL INFORMATION

I-1. Introduction and Project Summary. The City is seeking proposals from aerial ski lift manufacturers to manufacture and install at Spirit Mountain Recreation Area a fixed-grip, four-place chair lift to replace two existing, aging lifts. The new lift must be a bottom-drive and moving in a clockwise rotation. Lift speed will be a minimum of 450 feet per minute and have a minimum capacity of 2,000 people per hour. Lift will have a downhill capacity of 25%. The price shall include top and bottom terminals, new towers, new line equipment, new chairs and operator shacks at the top and bottom terminals and all appropriate approvals. This will be a turnkey project. Additional detail is provided in **Part IV** of this RFP.

I-2. Calendar of Events. The City will make every effort to adhere to the following schedule:

Activity	Date
Pre-proposal Conference (optional – see I-4 below)	January 3, 2025
Proposals must be received in the Purchasing Office by 3:00 PM on this date.	January 8, 2025

I-3. Rejection of Proposals. The City reserves the right, in its sole and complete discretion, to reject any and all proposals or cancel the request for proposals, at any time prior to the time a contract is fully executed, when it is in its best interests. The City is not liable for any costs the Bidder incurs in preparation and submission of its proposal, in participating in the RFP process or in anticipation of award of the contract.

I-4. Pre-proposal Conference. The City will hold an optional pre-proposal conference at 11:00 am central time on Friday, January 3, 2025. Interested Bidders may attend via Teams through the link available <https://duluthmn.gov/purchasing/bids-request-for-proposals/>.

I-5. Questions & Answers. Any questions regarding this RFP must be submitted by e-mail to the Purchasing Office at purchasing@duluthmn.gov **no later than** the date indicated on the Calendar of Events. Answers to the questions will be posted as an Addendum to the RFP.

I-6. Addenda to the RFP. If the City deems it necessary to revise any part of this RFP before the proposal response date, the City will post an addendum to its website <http://www.duluthmn.gov/purchasing/bids-request-for-proposals/> . Although an e-mail notification will be sent, it is the Bidder's responsibility to periodically check the website for any new information

I-7. Proposals. To be considered, hard copies of proposals must arrive at the City on or before the time and date specified in the RFP Calendar of Events. The City will

not accept proposals via email or facsimile transmission. The City reserves the right to reject or to deduct evaluation points for late proposals.

Proposals must be signed by an authorized official. If the official signs the Proposal Cover Sheet attached as Appendix A, this requirement will be met. Proposals must remain valid for 60 days or until a contract is fully executed.

Please submit one (1) paper copy of the Technical Submittal and one (1) paper copy of the Cost Submittal. The Cost Submittal should be in a separate sealed envelope. In addition, if either the Technical or Cost Submittal has large tables, Bidders are asked to submit a digital copy on flash drive in Microsoft Office-compatible or pdf format sealed within the appropriate envelope.

All materials submitted in response to this RFP will become property of the City and will become public record after the evaluation process is completed and an award decision made.

I-8.Small Diverse Business Information. The City encourages participation by minority, women, and veteran-owned businesses as prime contractors, and encourages all prime contractors to make a significant commitment to use minority, women, veteran-owned and other disadvantaged business entities as subcontractors and suppliers. A list of certified Disadvantaged Business Enterprises is maintained by the Minnesota Unified Certification Program at <http://mnucp.metc.state.mn.us/>.

I-9. Agreement. The awarded proposer will be required to sign the construction contract and project labor agreement attached as Appendix C. Questions about the contract should be submitted to purchasing@duluthmn.gov by the question deadline in the schedule above.

I-10. Award. Although itemized prices are requested, the construction contract will be a lump-sum, not-to-exceed contract. The itemized prices will be used in the event of scope changes requested by the City.

I-11. Term of Contract. The term of the contract will begin once the contract is fully executed and is anticipated to end by November 7, 2025, including final commissioning. The selected Bidder shall not start the performance of any work nor shall the City be liable to pay the selected Bidder for any service or work performed or expenses incurred before the contract is executed and a notice to proceed is issued by the Purchasing Agent.

I-12. Mandatory Disclosures. By submitting a proposal, each Bidder understands, represents, and acknowledges that:

- A. Their proposal has been developed by the Bidder independently and has been submitted without collusion with and without agreement, understanding, or planned common course of action with any other vendor

or suppliers of materials, supplies, equipment, or services described in the Request for Proposals, designed to limit independent bidding or competition, and that the contents of the proposal have not been communicated by the Bidder or its employees or agents to any person not an employee or agent of the Bidder. A declaration of non-collusion is included in Appendix D and must be completed and submitted with the bid.

- B. There is no conflict of interest. A conflict of interest exists if a Bidder has any interest that would actually conflict, or has the appearance of conflicting, in any manner or degree with the performance of work on the project. If there are potential conflicts, identify the municipalities, developers, and other public or private entities with whom your company is currently, or have been, employed and which may be affected.
- C. It is not currently under suspension or debarment by the State of Minnesota, any other state or the federal government. A responsible contractor form is included in Appendix D and must be completed and submitted with the proposal.
- D. The company is either organized under Minnesota law or has a Certificate of Authority from the Minnesota Secretary of State to do business in Minnesota, in accordance with the requirements in M.S. 303.03.

I-13. Notification of Selection. Bidders whose proposals are not selected will be notified in writing.

PART II - PROPOSAL REQUIREMENTS

TECHNICAL PROPOSAL

1. Proposal cover sheet attached as Appendix A
2. Cover letter that includes a description of specifically why Bidder is a good fit for this proposal and a restatement of the goals and objectives to demonstrate the Bidder's understanding of the project.
3. Proposal shall be limited to no more than 20 pages.
4. Scope of work envisioned, including but not limited to:
 - a. Specific objectives
 - b. Detailed deliverables
 - c. Timeline of services
5. Background of firm that demonstrates successful completion of comparable projects
6. Resumes of key personnel responsible for deliverables
7. Examples of similar project experience of team
8. A work plan and detail on the scope of services and deliverables for the initial phase of predesign (this can be the same as what is in the cost proposal with

costs removed in the technical proposal).

9. References

10. Completed Responsible Contractor Form, including A-1

11. Completed Declaration of Non-Collusion

12. Completed EEO Statement of Compliance

13. Statement acknowledging you've reviewed the contract and project labor agreement and agree to sign the documents as-is once the project-specific information is filled in.

14. Statement acknowledging you've reviewed the community benefits requirements and agree to provide a completed best efforts plan within three business days of award notice.

COST PROPOSAL

15. A lump sum, not-to-exceed total project cost including any sub-consultant fees, along with the following information:

- a. A breakdown of the hours by task for each employee
- b. Identification of anticipated direct expenses
- c. Miscellaneous charges such as mileage and copies
- d. Identification of any assumptions made while developing the cost proposal
- e. Any cost information related to additional services or tasks, to be included as additional costs and not part of the total project cost

PART III - CRITERIA FOR SELECTION

The proposals will be reviewed by staff members from both the City of Duluth and Spirit Mountain Recreation Area Authority. The intent of the selection process is to review proposals and make an award based upon qualifications as described therein. A 100-point scale will be used to create the final evaluation recommendations. The factors and weighting on which proposals will be judged are:

Qualifications of the Bidder and Personnel	40%
Prior experience with similar work	30%
Work Plan/Schedule	20%
Cost	10%

PART IV – PROJECT DETAIL

The project consists of manufacturing and installing a new, fixed-grip, four-seat chairlift at the Spirit Mountain Recreation Area, as outlined in the maps in Appendix B. The new lift will replace two old lifts.

Installation for the new lift must begin in the summer of 2025 and must be fully completed, including all commissioning, no later than November 7, 2025 (20 days before Thanksgiving, to give us time to fix any issues before we open).

Responses must include plans for topographic maps with likely terminal sites and/or a preliminary survey, a proposed layout for the terminal and tower locations, excavation

surveying for the tower and terminal locations and all necessary permits, including fees, to be paid by the manufacturer.

Responses also must include assurances that design engineering will be certified by a qualified engineer to conform to verifiable design criteria, as required under ANSI codes, and that foundation designs for towers and terminals will be site-specific and will meet local building codes; any lift re-engineering required by the manufacturer as a result of revised ground conditions will be the responsibility of the manufacturer.

As a turnkey operation, the manufacturer must ensure the following are addressed during installation: site engineering inspections using manufacturer's personnel; stormwater management/erosion control; preconstruction grading to approximate finished grade at terminals; excavation to bottom of footing elevation and backfilling for both towers and terminals; installation of both terminal and tower grounding rings and conductors as required to meet technical specifications for tramway design; installation of foundations for both terminals and towers including forming, rebar and concrete and stripping; installation, adjustment and commissioning of a new lift and associated electrical; string and splice haul rope (including a resplice within one year of the initial splice, if needed); labor and certificate for splice; concrete testing and test reports; final preoperational testing and alignment; ensuring all authorities having jurisdiction for load testing are scheduled timely; providing as-built line surveys, drawings and design certifications and verifications; and initial magnetic rope testing (MRT) provided for lifts running 3 meters per second or faster, as required by ANSI.

Slope length is approximately 1,867 feet, with a vertical rise of 440 feet; the average gradient of line is 22%.

The fixed-grip carriers must be equipped with a restraining bar and footrest. The proposal must include the manufacturer's recommended number of carriers, carrier spacing and carrier interval, based on the length of the slope and the need to move 2,000 people per hour; the proposal must include one additional chair and grip.

Downhill loading will be 25%, with the drive terminal and active tension located at the bottom of the lift and the return terminal and passive tension at the top of the lift. Speed must be 450 feet per minute, and travel time in minutes from the bottom of the lift to the top must be 4.1 minutes. The lift must have the capacity to move 2,000 people per hour.

The lift must be equipped with a gear box; the variable frequency drive will be supplied with power of 480v 3 phase Alternating Current (AC). The evacuation drive must be powered by diesel or gasoline and have a drive speed of 150 feet per minute. The response need not include an auxiliary drive.

The size of the drive operator house at the bottom must be 10' by 16' and the size of the return operator house at the top must be 10' by 12'.

The response must include the manufacturer's recommendation on the appropriate number of tubular towers and cross arms, based on the length of the lift and the terrain. All ladders must include fall protection.

The cable length, along with the number of support and compression sheave trains, must be recommended by the manufacturer, based upon the length of the lift and the terrain. Sheave trains must include catwalks.

The City desires work platforms with standard safety systems. The City also desires one standard wind speed and direction system.

The responses should indicate the manufacturer's recommended amount of drive terminal, line tower and return terminal concrete and associated cost.

APPENDICES

Appendix A – Proposal Cover Sheet

Appendix B – Maps

Appendix C – Construction Contract and Project Labor Agreement Templates

Appendix D – Additional Contract Documents

**APPENDIX A - PROPOSAL COVER SHEET
CITY OF DULUTH
RFP# 25-AA03 SPIRIT MOUNTAIN LIFT REPLACEMENT**

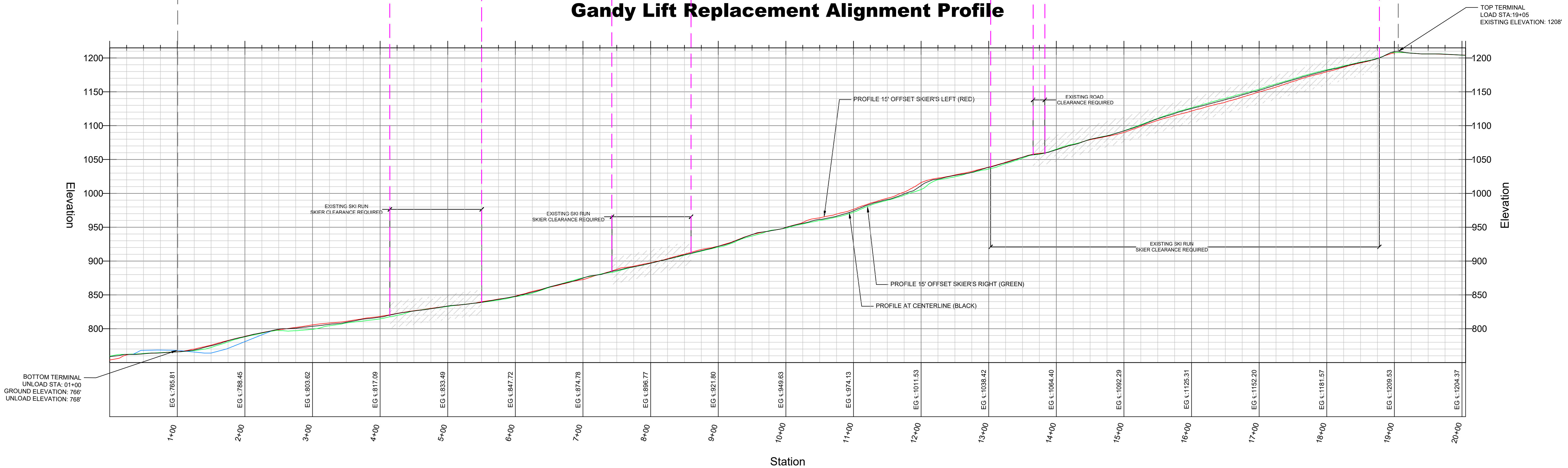
Bidder Information:	
Bidder Name	
Mailing Address	
Contact Person	
Contact Person's Phone Number	
Contact Person's E-Mail Address	
Federal ID Number	
Authorized Signature	
Name & Title of Authorized Signer	
Email of Authorized Signer	

APPENDIX B - MAPS
CITY OF DULUTH
RFP# 25-AA03 SPIRIT MOUNTAIN LIFT REPLACEMENT

1. Gandy Lift Plan Profile
2. Rough map of new lift alignment



Gandy Lift Replacement Alignment Profile



LIFT SPECS:
SLOPE LENGTH: 1867'
VERTICAL: 440'

PREPARED BY:

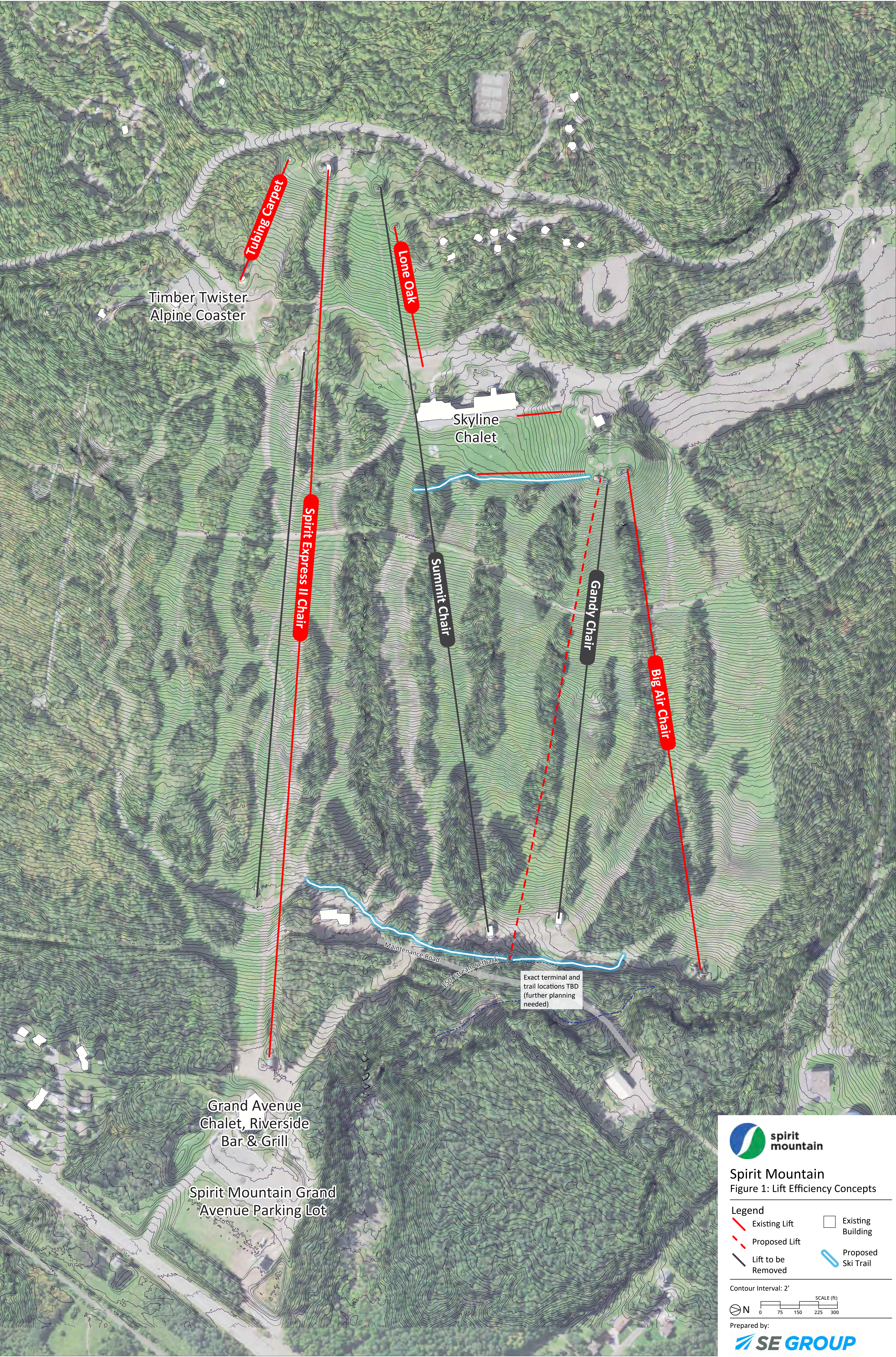
SE GROUP
WWW.SEGROUP.COM








Spirit Mountain | **GANDY LIFT PLAN & PROFILE**




0 40' 80' 160'
GRAPHIC SCALE: 1" = 80'
CONTOUR INTERVAL: 2'



Spirit Mountain
Figure 1: Lift Efficiency Concepts

Legend	
 Existing Lift	 Existing Building
 Proposed Lift	 Proposed Ski Trail
 Lift to be Removed	

Contour Interval: 2'

 N

SCALE (ft)
0 75 150 225 300

Prepared by:


**APPENDIX C – CONTRACT AND PROJECT LABOR AGREEMENT
CITY OF DULUTH
RFP# 25-AA03 SPIRIT MOUNTAIN LIFT REPLACEMENT**

1. Construction Contract
2. Project Labor Agreement

Click or tap here to enter text.

&
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 Click or tap here to enter text., Click or tap here to enter text., 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, including all required forms, 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 Click or tap here to enter text. all labor, supervision, material, equipment, supplies, insurance, performance bond, payment bond and everything else necessary for general construction of Click or tap here to enter text.; Project #Click or tap here to enter text. at Click or tap here to enter text., all in strict accordance with plans and specifications prepared by Click or tap here to enter text., your bid of \$Click or tap here to enter text. and Resolution No. Click or tap here to enter text. passed on Click or tap to enter a date.. Contractor shall not commence performance of any work under this contract until Contractor receives written authorization from the City's Purchasing Agent.
3. The City agrees to make progress payments and final payments to the Contractor as stated in the contract specifications. The total amount payable under this contract shall not exceed Click or tap here to enter text. (\$Click or tap here to enter text.) unless the contract is modified by formal amendment or change order. Payments under this Agreement shall be made from the following funding Click or tap here to enter text..
4. Per City Code Section 2-26, prevailing wages must be paid under this contract. Due to the dollar amount of this contract, a Project Labor Agreement and Community Benefits Requirements Choose an item. included as part of this contract (City Code Section 2-29).
5. 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.
6. 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.
7. Duties to Defend, Indemnify, and Hold Harmless
 - a. To the fullest extent permitted by law, the Contractor agrees that it shall defend, indemnify, and hold harmless the City, its officers, employees, and agents, past or present, from and against any and all claims including but not limited to claims for contribution or indemnity, demands, suits, judgments, costs, and expenses (including

attorneys' fees) asserted by itself or any person or persons including agents or employees of the City of Duluth or the Contractor by reason of death or injury to person or persons or the loss or damage to property arising out of, or by reason of, any act, omission, operation or work of the Contractor or its employees while engaged in the execution or performance of services under this Agreement. Said obligations to defend, indemnify, and hold harmless shall include, but not be limited to the obligation to defend, indemnify, and hold harmless the City in all matters where claims of liability against the City arise out of, relate to, are attributable to, are passive or derivative of, or vicarious to the negligent, intentional, or wrongful acts or omissions of the Contractor, including but not limited to the failure to supervise, breach of warranty, the failure to warn, the failure to prevent such act or omission by Contractor, its employees, or its agents, and any other source of liability. Said obligations to defend, indemnify, and hold harmless shall be triggered upon the assertion of a claim for damages against City. On ten days' written notice from the City of Duluth, the Contractor shall appear and defend all lawsuits against the City of Duluth growing out of such injuries or damages. Contractor shall not be required to indemnify City for amounts found by a fact finder to have arisen out of the sole negligent or intentional acts or omission of the City unless Contractor should fail to comply with its insurance obligations in this contract to the detriment of City, in which case the Contractor shall indemnify, defend, and hold harmless the City for any and all amounts except amounts attributed to intentional, willful or wanton acts of the City. This Section, in its entirety, shall survive the termination of this Agreement if any amount of work has been performed by Contractor. Nothing in this provision shall affect the limitations of liability of the City as set forth in Minnesota Statutes Chapter 466.

The Contractor understands this provision may affect its rights and may shift liability and specifically agrees to the same.

- b. The Contractor shall defend and hold and save the City, its officers, employees, representatives and agents, and the Architect, harmless from liability of any nature or kind, including costs and expenses, for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the City, unless otherwise specifically stipulated in the Technical Specifications.
8. 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 the Indemnification paragraphs above, subject to provisions below.
 - (1) Workers' compensation insurance in accordance with the laws of the State of Minnesota.
 - (2) Commercial General and Automobile Liability Insurance with limits not less than **\$1,500,000** Single Limit 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.

Umbrella coverage with a “form following” provision may make up the difference between the commercial general and auto liability coverage amounts and the required minimum amount stated above.

- (3) City of Duluth shall always be named as **Additional Insured** under the Commercial General, and Automobile Liability Policies. Contractor shall also provide evidence of Statutory Minnesota Workers Compensation Insurance.
 - (4) For any new building construction or new building addition for which the value exceeds \$100,000, the Contractor shall provide proof of Builders Risk Insurance on an “All-Risk” basis, which includes theft of material not installed and glass breakage, to the full value of the new building. Contractor(s) is (are) liable for losses within deductible coverage.
 - (5) Contractor to provide Certificate of Insurance evidencing all coverages which shall contain an unconditional requirement that the insurer notify the City without fail not less than 30-days prior to any cancellation, or 10 days prior to any non-renewal 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.
 - 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.
 - e. 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.
9. The Contractor waives the right to make any claim whatsoever against any officer, agent or employee of the City for, or on account of, anything done, or omitted to be done, in connection with the drafting or ratification of this contract. In addition, if it is determined that this contract was not drafted or ratified in conformity with Minnesota or federal law, or City of Duluth ordinance or charter provisions, or if the contract includes obligations that are void as to Minnesota or federal law or City of Duluth ordinance or charter provisions, the Contractor agrees to raise no defense and make no claim against the City on the basis of ratification, laches, estoppel, or implied contract. **The Contractor understands this provision may affect its rights and may shift liability and specifically agrees to the same.**
10. The Contractor shall not assign, transfer, convey or otherwise dispose of this contract, or its right to execute it, or its rights, duties, benefits, obligations, liabilities, or title or interest in or to it, or any part thereof, without the written 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 or making assignments to banks, trust companies, or other financial institutions. Contractor shall remain primarily responsible for all work performed by any Subcontractor.

11. 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.
12. 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.
13. 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.
14. In accordance with the requirements of Minnesota Statutes §471.425 Subd. 4a, or its successor, the Contractor shall pay any Subcontractor within ten days of the Contractor's receipt of payment from the City for undisputed services provided by the Subcontractor. The Contractor shall pay interest of 1-1/2 percent per month or any part of a month to the Subcontractor on any undisputed amount not paid on time to the Subcontractor. The minimum monthly interest penalty payment for any unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the Contractor shall pay the actual penalty due to the Subcontractor. A Subcontractor who prevails in a civil action to collect interest penalties from a Contractor must be awarded its costs and disbursement, including attorney's fees, incurred in bringing the action.
15. Contractor shall 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.
16. 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.
17. Any waiver by any party of any provision of this contract shall not imply a subsequent waiver of that or any other provision.
18. 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.
19. 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.
20. This Agreement shall not be in force and effect, or in any way binding upon the City until the same shall have been approved as to form by the City Attorney, signed by the Mayor, attested by the Clerk, and countersigned by the City Auditor.

21. 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.
22. 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.

[The remainder of this page intentionally left blank. Signature page to follow].

TEMPLATE

CITY OF DULUTH-Client

By:

Mayor

Attest:

City Clerk

Date _____

Countersigned:

City Auditor

Approved as to Form:

City Attorney

Click or tap here to enter text.

Contractor

By:

Company Representative

Its

Title of Representative

Date _____

CITY OF DULUTH PROJECT LABOR AGREEMENT

ARTICLE I PURPOSE

This Agreement is entered into as of the date of attestation by the City Clerk, by and between Click or tap here to enter text., its successors or assigns (hereinafter “Project Contractor”), and the City of Duluth, (hereinafter “Owner”¹) and the Duluth Building and Construction Trade Council, on behalf of its affiliated local unions, acting on their own behalf and on behalf of their respective affiliates and members whose names are subscribed hereto and who have, through their duly authorized officers, executed this Agreement (hereinafter collectively called the “Union or Unions”), with respect to the construction of the Click or tap here to enter text. (hereinafter “Project”).

The term “Contractor” shall include all construction contractors and subcontractors of whatever tier engaged in construction work within the scope of this Agreement, including the Project Contractor when it performs construction work within the scope of this Agreement. Where specific reference to Click or tap here to enter text. alone is intended, the term “Project Contractor” is used.

The parties recognize the need for the timely completion of the Project without interruption or delay. This Agreement is intended to establish a framework for labor-management cooperation and stability. The Contractor(s) and the Unions agree that the timely construction of this Project will require substantial numbers of employees from construction and supporting crafts possessing skills and qualifications that are vital to its completion. They will work together to furnish skilled, efficient craft workers for the construction of the Project.

Further, the parties desire to mutually establish and stabilize wages, hours and working conditions for the craft workers on this construction project, to encourage close cooperation between the Contractor(s) and the Unions to the end that a satisfactory, continuous and harmonious relationship will exist between the parties to this Agreement.

Therefore, 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 Agreement, the parties agree to abide by the terms and conditions in this Agreement, and to establish effective and binding methods for the settlement of all misunderstandings, disputes or grievances which may arise. Further, the Contractor(s) and all contractors of whatever tier, agree not to engage in any lockout, and the Unions agree not to engage in any strike, slow-down, or interruption or other disruption of or interference with the work covered by this Agreement.

¹ Where the work is performed under Contract with the City of Duluth, the “Owner” is the City of Duluth. Where the Owner receives financial assistance or payment from the City, the Owner is the corporation, firm or other entity that is receiving the assistance or payment.

ARTICLE II

SCOPE OF AGREEMENT

Section 1. This Project Labor Agreement shall apply and is limited to all construction work included in all bid categories for the Project under the direction of and performed by the Contractor(s), of whatever tier, which may include the Project Contractor, who have contracts awarded for such work on the Project. Such work shall include site preparation work and dedicated off-site work.

The Project is defined as: [Click or tap here to enter text.](#)

Section 2. It is agreed that the Project Contractor shall require all Contractors of whatever tier who have been awarded contracts for work covered by this Agreement to accept and be bound by the terms and conditions of this Project Labor Agreement by executing the “Agreement to be Bound” form attached as Exhibit 1 prior to commencing work. This Project Labor Agreement is a material term of the bid specifications for the Project and therefore, regardless of whether a contractor executes this Agreement, by virtue of the owner and/or Project Contractor accepting the bid offer of the Contractor, a Contractor who performs work on this project is bound to this PLA regardless of their execution of this Agreement. The Project Contractor shall assure compliance with this Agreement by the Contractors. It is further agreed that, where there is a conflict, the terms and conditions of this Project shall supersede and override terms and conditions of any and all other national, area, or local collective bargaining agreements, except for all work performed under the NTL Articles of Agreement, The National Stack/Chimney Agreement, the National Cooling Tower Agreement, all instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians, and the National Agreement of the International Union of Elevator Constructors, with the exception of Article V, VI and VII of this Project Labor Agreement, which shall apply to such work. It is understood that this is a self-contained, stand alone, Agreement and that by virtue of having become bound to this Project Agreement, neither the Project Contractor nor the Contractors will be obligated to sign any other local, area or national agreement.

Section 3. Nothing contained herein shall be construed to prohibit, restrict or interfere with the performance of any other operation, work, or function which may occur at the Project site or be associated with the development of the Project.

Section 4. This Agreement shall only be binding on the signatory parties hereto and shall not apply to their parents, affiliates or subsidiaries.

Section 5. The Owner and/or Project Contractor have the absolute right to select any qualified bidder for the award of contracts on this Project without reference to the existence or non-existence of any agreements between such bidder and any party to this Agreement; provided, however, only that such bidder is willing, ready and able to become a party to and comply with this Project Agreement, should it be designated the successful bidder.

Section 6. As areas and systems of the Project are inspected and construction tested by the Project Contractor or Contractors and accepted by the Owner, the Project Labor Agreement will not have further force or effect on such items or areas, except when the Project Contractor or Contractors are

directed by the Owner to engage in repairs, modifications, check-out, and warranty functions required by its contract with the Owner during the term of this Agreement.

Section 7. It is understood that the Owner, at its sole option, may terminate, delay and/or suspend any or all portions of the Project at any time.

Section 8. It is understood that the liability of any employer and the liability of the separate unions under this Agreement shall be several and not joint. The unions agree that this Agreement does not have the effect of creating any joint employer status between or among the Owner, Contractor(s) or any employer.

Section 9. 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 supervisor employees as defined by the National Labor Relations Act. No Contractor party is required to sign any other agreement as a condition of performing work within the scope of this Agreement. However, any Contractor performing work on the Project which is not party to a Local Area Labor Agreement for a craft employed by the Contractor, agrees to install hourly wage rates, hours, fringe benefit contributions, referral procedures and all other terms and conditions of employment as fully set forth in the applicable Local Area Agreement as described in Schedule A for work on the Project for each craft employed by the Contractor. But in no event shall the wages be less than the wages that are applicable to this project under the Minnesota Prevailing Wage Act, Minn. Stat. § 177.43. All employees covered by this Agreement shall be classified in accordance with the work performed. Nothing in this Agreement requires employees to join a union or pay dues or fees to a union as a condition of working on the covered project. This Agreement is not, however, intended to supersede independent requirements in applicable local union agreements as to contractors that are otherwise signatory to those agreements and as to employees of such employers performing covered work.

Section 10. The Contractors agree to timely pay contributions to the established employee benefit funds in the amounts designated in the Local Area Labor Agreements attached as Schedule A.

The Contractors adopt and agree to be bound by the written terms of the legally-established Trust Agreements 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 11. All workers delivering fill, sand, gravel, crushed rock, transit/concrete mix, ready mix, asphalt or other similar material and all workers removing any materials from the construction site shall receive a total package of wages and benefits at least and not lower than the wages and benefits provided for in the then current Highway, Heavy Construction Agreement between Teamsters Local 346 and the Associated General Contractors of America, or the Highway Heavy Prevailing Wage Schedule, whichever is greater.

ARTICLE III

UNION RECOGNITION AND UNION SECURITY

Section 1. The Contractors recognize the signatory Unions as the sole and exclusive bargaining representatives of all craft employees within their respective jurisdictions working on the Project 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 comply fully with the posted visitor and security and safety rules of the Project.

ARTICLE IV

REFERRAL OF EMPLOYEES

Applicants for the various classifications covered by this Agreement required by the Employer or Contractors on the Project shall be referred to the Contractors by the Unions. The Unions represent that its local unions administer and control their referrals and it is agreed that these referrals will be made in a non-discriminatory manner and in full compliance with Federal and State laws.

ARTICLE V

MANAGEMENT'S RIGHTS

The Project Contractor and Contractors of whatever tier retain full and exclusive authority for the management of their operations. Except as otherwise limited by the terms of this Agreement or the applicable local area agreements, the Contractors shall direct their working forces at their prerogative, including, but not limited to hiring, promotion, transfer, lay-off or discharge for just cause.

ARTICLE VI

WORK STOPPAGES AND LOCKOUTS

Section 1. During the term of this Agreement there shall be no strikes, picketing, work stoppages, slowdowns or other disruptive activity for any reason by the Unions or by any employee, and there shall be no lockout by the Contractor. Failure of any Union or employee to cross any picket line established at the Project site is a violation of this Article.

Section 2. The Unions shall not sanction, aid or abet, encourage or continue any work stoppage, strike, picketing or other disruptive activity at the Contractor's project site or any site of a contractor or supplier necessary for the performance of work at the project site and shall undertake all reasonable means to prevent or to terminate any such activity. No employee shall engage in activities which violate this Article. Any employee who participates in or encourages any activities which interfere with the normal operation of the Project shall be subject to disciplinary action, including discharge, and if justifiably discharged for the above reasons, shall not be eligible for rehire on the Project for a period of not less than thirty (30) days.

Section 3. The Unions shall not be liable for acts of employees for whom it has no responsibility. The International Union General President or Presidents will immediately instruct, order and use the best efforts of his office to cause the Local Union or Unions to cease any violations of this Article. An International Union complying with this obligation shall not be liable for unauthorized acts of its Local Union. The principal officer or officers of a Local Union will immediately instruct, order and

use the best efforts of his office to cause the employees the Local Union represents to cease any violations of this Article. A Local Union complying with this obligation shall not be liable for unauthorized acts of employees it represents. The failure of the Contractor to exercise its right in any instance shall not be deemed a waiver of its right in any other instance.

Section 4. Any party alleging a breach of this Article shall have the right to petition a court for temporary and permanent injunctive relief. The parties agree that the moving party, upon proving a breach of this Agreement, shall be entitled to temporary and permanent injunctive relief.

ARTICLE VII **SAFETY**

The parties are mutually committed to promoting a safe working environment for all personnel at the job site. It shall be the responsibility of each employer to which this PLA applies to provide and maintain safe working conditions for its employees, and to comply with all applicable federal, state and local health and safety laws and regulations.

ARTICLE VIII **UNION-MANAGEMENT COOPERATION COMMITTEE**

The parties to this Agreement agree to form a Union-Management Committee, consisting of signatory unions, contractors, and representatives of the City of Duluth. The purpose of the Committee is to ensure cooperation on matters of mutual concern, including productivity, quality of work, safety and health.

ARTICLE IX **DISPUTES AND GRIEVANCES**

Section 1. This Agreement is intended to provide close cooperation between management and labor. Each of the Unions will assign a representative to this Project for the purpose of completing the construction of the Project economically, efficiently, continuously, and without interruptions, delays, or work stoppages.

Section 2. The Contractors, Unions, and the employees, collectively and individually realize the importance to all parties to maintain continuous and uninterrupted performance of the work on the Project, and agree to resolve disputes in accordance with the grievance-arbitration provisions set forth in this Article.

Section 3. Any question or dispute arising out of and during the term of this Project Labor Agreement (other than trade jurisdictional disputes) shall be considered a grievance and subject to resolution under the following procedures:

Step 1. (a) When an employee subject to the provisions of this Agreement feels he or she is aggrieved by a violation of this Agreement, he or she, through his or her local union business representative or job steward, shall, within ten (10) working days after the occurrence of the violation, or knowledge of the violation, give notice to the work-site representative of the involved Contractor stating the provision(s) of the Local Area Agreement and/or this PLA alleged to have been violated. The

business representative of the local union or the job steward and the work-site representative of the involved Contractor and the Project Contractor shall meet and endeavor to adjust the matter within three (3) working days after timely notice has been given. The representative of the Contractor shall keep the meeting minutes and shall respond to the Union representative in writing (copying the Project Contractor) at the conclusion of the meeting but not later than twenty-four (24) hours thereafter. If they fail to resolve the matter within the prescribed period, the grieving party may, within forty-eight (48) hours thereafter, pursue Step 2 of the Grievance Procedure, provided the grievance is reduced to writing, setting forth the relevant information concerning the alleged grievance, including a short description thereof, the date on which the grievance occurred, and the provision(s) of the Local Area Agreement and/or this PLA alleged to have been violated.

(b) Should the Local Union(s) or the Project Contractor or any Contractor have a dispute with the other party and, if after conferring, a settlement is not reached within seven (7) working days, the dispute may be reduced to writing and proceed to Step 2 in the same manner as outlined herein for the adjustment of an employee complaint.

Step 2. The Business Manager or his or her designee of a Local Union and the involved Contractor shall meet within seven (7) working days of the referral of a dispute to this second step to arrive at a satisfactory settlement thereof. Meeting minutes shall be kept by the Contractor. If the parties fail to reach an agreement, the dispute may be appealed in writing in accordance with the provisions of Step 3 within seven (7) calendar days thereafter.

Step 3. (a) If the grievance has been submitted but not adjusted under Step 2, either party may request in writing, within seven (7) calendar days thereafter, that the grievance be submitted to an Arbitrator mutually agreed upon by them. The Contractor and the involved Union shall attempt mutually to select an arbitrator, but if they are unable to do so, they shall request the Federal Mediation and Conciliation Service to provide them with a list of seven (7) neutral arbitrators from which the Arbitrator shall be selected. The parties shall alternatively strike arbitrators from the list until one remains, who shall preside at the hearing. The party striking first shall be determined by the flip of a coin. The decision of the Arbitrator shall be final and binding on all parties. The fee and expenses of such Arbitration shall be borne equally by the Contractor and the involved Local Union(s).

(b) Failure of the grieving party to adhere to the time limits established herein shall render the grievance null and void. The time limits established herein may be extended only by written consent of the parties involved at the particular step where the extension is agreed upon. The Arbitrator shall have the authority to make decisions only on issues presented to him or her, and he or she shall not have authority to change, amend, add to or detract from any of the provisions of this Agreement.

Section 4. The Project Contractor and Owner shall be notified of all actions at Steps 2 and 3 and shall, upon their request, be permitted to participate in all proceedings at these steps.

ARTICLE X

JURISDICTIONAL DISPUTES

Section 1. The assignment of work will be solely the responsibility of the Contractor performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

Section 2. All jurisdictional disputes on this Project, between or among Building and Construction Trades Unions and employers, parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Contractors and Unions parties to this Agreement.

Section 3. All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Contractor's assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

Section 4. Each Contractor will conduct a pre-job conference with the appropriate Building and Construction Trades Council prior to commencing work. The Project Contractor and the Owner will be advised in advance of all such conferences and may participate if they wish.

ARTICLE XI **SUBCONTRACTING**

The Project Contractor agrees that neither it nor any of its contractors or subcontractors will subcontract any work to be done on the Project except to a person, firm or corporation who is or agrees to become party to this Agreement. Any contractor or subcontractor working on the Project shall, as a condition to working on said Project, become signatory to and perform all work under the terms of this Agreement.

ARTICLE XII **HELMETS TO HARDHATS**

Section 1. The Employers and Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Employers and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

Section 2. The Unions and Employers agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

ARTICLE XIII **LABOR HARMONY CLAUSE**

The contractor shall furnish labor that can work in harmony with all other elements of labor employed on the 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, slowdowns, 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 Owner or Project Contractor may have, including without limitation the right to terminate the contract.

ARTICLE XIV

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 non-membership in a Union or based upon race, color, religion, sexual preference, gender identification, 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 all gender identification.

ARTICLE XV

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 or 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 a 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 XVI

DURATION OF THE AGREEMENT

The Project Labor Agreement 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.

[The remainder of this page intentionally left blank. Signature page to follow].

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

DULUTH BUILDING AND
CONSTRUCTION TRADES COUNCIL

Click or tap here to enter text.

By: _____

By: _____

Its: _____
(Printed Name/Title)

Its: _____
(Printed Name/Title)

Date: _____

Date: _____

Phone No.: _____

CITY OF DULUTH

By: _____
Mayor

Attest:

City Clerk

Date: _____

City Auditor

City Attorney

**SUBCONTRACTOR'S
AGREEMENT TO BE BOUND
PROJECT LABOR AGREEMENT**

The undersigned EMPLOYER (subcontractor) agrees that it has reviewed a copy of the Project Labor Agreement for the _____ Project located in Duluth, Minnesota, with the Duluth Building & Construction Trades Council and further agrees to become a party to and bound to the foregoing Agreement.

This form is to be completed by subcontractor and submitted to the Project Contractor. Project Contractor shall retain and submit to City of Duluth or Duluth Building & Construction Trades Council upon request.

Attest:

SIGNED FOR THE EMPLOYER:

Dated: _____

Signature _____

Company Name _____

Company Address _____

Phone No., Job Site and/or Office _____

Fax No. _____

Signer's Name _____

Signer's Title _____

SCHEDULE “A”

For a copy of the current Local Area Collective Bargaining Agreement referenced in Article II, Section 9 of the PLA please contact directly the Local Union representing the craft for the work to be performed (see attached contact list) or contact the Duluth Building & Construction Trades Council.

- A-1 Asbestos Workers Local 49
- A-2 Boilermakers Local 647
- A-3 BAC Local 1 Chapter 3 Duluth and Iron Range
- A-4 Carpenters Local 361
- A-5 Cement Masons/Plasters 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 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

AFFILIATE UNIONS CONTACT INFORMATION 2022

HEAT AND FROST INSULATORS 49

Dave Cartwright
2002 London Road #210
Duluth, MN 55812
(218) 724-3223 / Fax# 724-1870
dave@insulatorslocal49.org

CARPENTERS LOCAL 361

Jeremy Browen
5238 Miller Trunk Hwy
Hermantown, MN 55811
(218) 724-3297 / Fax# 724-8536
jbrowen@ncsrcc.org

IBEW LOCAL 242

Don Smith, *Secretary*
2002 London Road #111
Duluth, MN 55812
(218) 728-6895
dsmithlcl242@unions-america.com

MILLWRIGHTS & MACHINERY ERECTORS LOCAL 1348

Jason Odella
726 4th Street N
(218) 741-6314 / Fax# 741-6017
jodella@ncsrcc.org

PLUMBERS & FITTERS LOCAL 11

Andrew Campeau
4402 Airpark Boulevard
Duluth, MN 55811
(218) 727-2199 / Fax# 727-2298
president@duluthbuildingtrades.com

SPRINKLER FITTERS LOCAL 669

Gene Stevens
PO Box 16110
Duluth, MN 55816
(218) 343-0383
gstevenschief@gmail.com

BOILERMAKERS LOCAL 647

Bill Polchow
1007 NW 4th Street, Ste C
Grand Rapids, MN 55744
(218) 326-2522 / Fax# SAME
bpolchow647@outlook.com

CEMENT MASONS LOCAL 633

Michael Syversrud
2002 London Road #112
Duluth, MN 55812
(218) 724-2323 / Fax# 724-2472
mikes@local633.org

IRON WORKERS LOCAL 512

Keith Musolf
3752 Midway Road
Hermantown, MN 55810
(218) 724-5073
keith@iron512.com

OPERATING ENGINEERS LOCAL 49

Dan Gilbert
2002 London Road #116
(218) 724-3840 / Fax# 728-1441
dgilbert@local49.org

ROOFERS LOCAL 96

Ben Anderson
1707 Maryland Avenue
Superior WI 54880
(218) 591-0934
ben@rooferslocal96.com

TEAMSTERS LOCAL 346

Rod Alstead
2802 West 1st Street
Duluth, MN 55806
(218) 628-1034 / Fax# 628-0246
local@teamsters346.com

BAC LOCAL #1 CHAPTER 3 DULUTH & IRON RANGE

Stan Paczynski, *Treasurer*
2002 London Road #100
Duluth, MN 55812
(218) 724-8374
spaczynski@bac1mn-nd.org

ELEVATOR CONSTRUCTORS LOCAL 9

Ryan Parkos
433 Little Canada Rd E
Little Canada, MN 55117
(651) 287-0817 / Fax# 287-0820
r.parkos@local9.com

LABORERS LOCAL 1091

Dan Olson, *Vice President*
2002 London Road, #119
Duluth, MN 55812
(218) 728-5151 / Fax# 728-2431
laborers@local1091.com

PAINTERS LOCAL 106

Jack Carlson, *President*
2002 London Road, #106
Duluth, MN 55812
(218) 724-6466 / Fax# 724-7359
jcarlson@iupat82.org

SHEET METAL WORKERS LOCAL 10

Dean Kaldahl
6279 Industrial Road
Saginaw, MN 55779
(218) 724-6873 / Fax# SAME
dkaldahl@smw10.org

This information is provided by the Duluth Building & Construction Trades Council, 2002 London Road, Duluth, MN 55812; 218-724-6466, president@duluthbuildingtrades.com.

TEMPLATE

APPENDIX D – ADDITIONAL CONTRACT DOCUMENTS
CITY OF DULUTH
RFP# 25-AA03 SPIRIT MOUNTAIN LIFT REPLACEMENT

1. Bidding Information, including links to Community Benefits Provisions, State of Minnesota Certificate of Exemption from Surety Deposits for Non-Minnesota Contractors (informational)
2. General Bid Specifications (informational)
3. Labor Cost Bidding Data (informational)
4. Prevailing Wage Decisions (informational)
5. General Conditions (informational)
6. Responsible Contractor Form, including Part A-1 (to be submitted)
7. Declaration of Non-Collusion (to be submitted)
8. EEO Affirmative Action Policy Statement & Compliance Certificate (to be submitted)
9. Supplementary Provisions for State and Federal Funded Projects (information)
10. Notices to Bidders (Bid Rigging, Prompt Payment, Electronic Bids) (informational)
11. Notice to Bidders – Suspension and Debarment (informational)
12. Community Benefits Best Efforts Planning Template (to be submitted)



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

25-AA03 Best Value Procurement

for Spirit Mountain Ski Lift Replacement

Solicitation documents are on file at the Minnesota Builder's Exchange and Builder's Exchange of Wisconsin.

In this solicitation, the terms “proposal” and “bids” and the terms “proposer” and “bidder” may be used interchangeably.

INSTRUCTIONS TO PROPOSERS

All proposals/bids must be complete, signed, and transmitted in a sealed envelope plainly marked with the bid number, subject matter, and opening date. Costs must be in a separately sealed envelope.

Proposals may be mailed to the Purchasing Office, City Hall, 411 West 1st Street, Room 120, Duluth, MN 55802 or dropped off in person at the same address.

Proposals must be received in Purchasing before the bid deadline specified in the schedule of events.

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 split the award where there is a substantial savings to the City, to waive informalities and to reject any and all bids. Bids must be firm for a minimum of 60 days.

The following documents must be submitted with your proposal:

1. **Bid Surety** - A certified check or bank draft, payable to the order of the City of Duluth, 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 providing a copy of the addenda with their proposal. 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 8.

2. **Declaration 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 as part of contract execution. The City's forms provided in this solicitation must be used.

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 Equal Employment Opportunity (EEO) Affirmative Action Policy Statement & Compliance Certificate included in this solicitation.

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

6. **Community Benefits Provisions** – Any contract with a PLA will also be required to comply with the Community Benefits Provisions and submit a Best Efforts Plan for approval before a contract can be executed. More information is available at <https://www.duluthmn.gov/purchasing/forms/>.

7. **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: https://www.revenue.state.mn.us/sites/default/files/2022-03/sde_21.pdf

8. **Prevailing Wage** - Not less than the minimum salaries and prevailing wages as set forth in the contract documents must be paid on this project. A labor cost bidding form and the relevant prevailing wage decision(s) is included in this solicitation. Certified payrolls will also be required to be submitted and an IC-134 form (available at <https://www.revenue.state.mn.us/sites/default/files/2019-01/ic134.pdf>) must be submitted prior to retainage being released. More information is available at <https://duluthmn.gov/engineering/resources/contractor-resources/prevailing-wage/>.

9. **Partial Payments** – retainage withheld...Partial Payments shall be made in accordance with the provisions of MN/DOT 1906 and the following:

A. Prior to Substantial Completion: The first sentence of Paragraph Three shall be amended to read as follows: "From the total of the amounts ascertained as payable, five percent (5%) will be deducted and retained by the City for the protection of its interests as hereinafter provided. The balance, less all previous payments, will be certified for payment." The City will withhold eight percent (8%) from out of state contractors unless a waiver has been granted from the State of Minnesota, Department of Revenue by submitting Form SDE, Exemption from Surety Deposits for Non-Minnesota Contractors.

B. All provisions for partial payments shall apply to domestic materials only. No payments shall be made to the Contractor for materials manufactured outside of the United States until such materials have been delivered to the job site.

C. After 'Substantial Completion', the City may withhold no more than: (1) 250 percent of the cost to correct or complete work known at the time of substantial completion; and (2) one percent of the value of the contract or \$500, whichever is greater, pending completion and submission of all final paperwork by the contractor or subcontractor.

10. **Final Payments** - Section 1908 Final Payments of the City of Duluth Construction Standard is hereby deleted and replaced with the following:

Final Payment shall be made in accordance with the provisions of MN/DOT 1908 and the following:

1) The final estimate will show the balance due the Contractor after making all legal and specified

forfeitures and deductions. This balance will then be paid by the City to the Contractor within thirty (30) days after such estimate is presented to and accepted by the Contractor or within forty-five (45) days after such estimate is presented to and not acted upon by the Contractor, less allowable retainage per Minnesota Statutes 15.72 subdivision 2. At such time, the paid final estimate shall be considered valid with no further compensation due the Contractor.

2) The City will withhold and retain up to the allowable retainage per Minnesota Statutes 15.72 subdivision 2 of the final estimate for a period of up to the date of Final Contract Acceptance (MN/DOT 1516.4).

3) Where the provisions of MN/DOT 2571.3.K Plant Establishment Period pertain to the contract, the City will withhold and retain an amount equal to the final value of planting bid items or one percent (1%) of the final estimate, whichever is greater, for a period of up to two calendar years after the initial planting operations are complete.

4) State Law provides that the final estimate will be made within 90 days after completion of all work required under this Contract. If, however, the total value of the Contract exceeds \$2,000,000.00, the 90-day requirement will not apply and the time allowed for making such final estimate shall be 180 days after the work under this Contract has been, in all things, completed to the satisfaction of the Commissioner.

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

CITY OF DULUTH

Patrice Stalvig
Purchasing Agent



GENERAL BID SPECIFICATIONS

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

1. General. This document covers quotes or bids requested by the City of Duluth ("City"), including those requested on behalf of its Agents and Authorities. Each authority may issue their own purchase order or contract and will be responsible for it. The City of Duluth Authorities are as follows:
 - a. Duluth Airport Authority
 - b. Spirit Mountain Recreational Area Authority
 - c. Duluth Entertainment and Convention Center
 - d. Duluth Transit Authority
 - e. Duluth Economic Development Authority
 - f. Duluth Housing and Redevelopment Authority
2. Investigation by Bidders. Bidders are responsible for thoroughly reading and understanding the information, instructions, and specifications contained in this Invitation for Bids, and for investigating the site conditions at the Project location(s), if applicable. At the time of the opening of bids, each bidder will be presumed to have read and to be thoroughly familiar with the plans, specifications and contract documents (including all addenda). The failure or omission of any bidder to examine any form, instrument, or document shall in no way relieve the bidder from any obligation in respect to their bid.
3. Bidder Questions. Responses to general questions regarding the Invitation for Bids may be made at the discretion of the City. Every request for such interpretation should be in writing and delivered via e-mail or postal mail to the Purchasing Division before the deadline indicated on the Invitation for Bids, or if no deadline is specified, at least five (5) days prior to the scheduled bid opening. Responses will be issued in writing in the form of an Addenda or e-mail to prospective bidders.
4. Changes, Corrections & Withdrawal of Bids. 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. Bidders may make requests to withdraw/replace their bids by notifying the Purchasing Division in writing prior to the bid opening date and time.
5. Unit Pricing. If the total bid price is based on unit pricing, the City will verify the extended bid price for each item (obtained by multiplying the unit bid price by the bid item quantity). If any item is incorrectly calculated, the City will use the unit bid price to recalculate the extended item price and the total bid price.
6. Sales Tax. Do not include sales tax in the unit price. A sales tax exemption certificate will be provided upon request.
7. Bid/Quote Submission. Bids may be mailed to the Purchasing Office, City Hall, 411 West 1st Street, Room 120, Duluth, MN 55802, or dropped off in person at the same address. Bids must be received by Purchasing before the time and date specified in the invitation for bid.
8. Non-Collusion Clause. By submitting a bid, the bidder, their agent and/or employee(s) hereby affirm 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 for Bids, designed to limit independent bidding or competition.
9. Award. Award, if made, will be to the responsible bidder submitting the lowest bid which complies with the conditions of the Invitation for Bids and specifications.
10. Bidder Qualifications. Per Sec 41.23(e) of Duluth City Code, price may not be the only consideration for award. The City will make such investigations as deemed necessary to determine the ability, capacity and skill of the bidder to perform the work and perform it in the time specified without delay or interference, the character, integrity, reputation, judgment, experience and efficiency of the bidder, the quality of the bidder's performance of previous contracts or services, and the sufficiency of the financial resources, equipment available and ability of the bidder to perform the contract. Bidders shall furnish to the City all such information and data for this purpose, when requested.

Minnesota law requires that, in order to transact business in the State, including submitting a response to this request for bids/proposals, a corporate entity of any kind must either be organized under Minnesota law or have a Certificate of Authority from the Minnesota Secretary of State to do business in Minnesota (M.S. 303.03). By submitting this bid/proposal as a corporation, you are certifying that the responding corporation complies with this requirement.
11. Rejection of Bids. The City of Duluth reserves the right to reject any and all bids and to waive any informalities or irregularities in bids received whenever such rejection or waiver is in its best interests.

The City reserves the right to reject any bid if the evidence obtained by the City through such investigation fails to satisfy the City that the bidder is properly qualified to carry out the obligations of the contract and to complete the work as required by the plans and specifications.
12. Liquidated Damages for Failure to Enter into Contract. The successful bidder, upon their failure or refusal to accept a purchase order or execute and deliver the contract, proof of insurance and bonds required within 10 days after receipt of a notice of the acceptance of their bid, shall forfeit to the City, as liquidated damages for such failure or refusal, the security deposited with their bid (if required).
13. Equal Employment Opportunity. Contractor will be required to comply with all applicable Equal Employment Opportunity (EEO) laws and regulations. Affirmative action must be taken to insure that the employees and applicants for employment are not discriminated against because of their race, color, creed, sex or national origin. The City of Duluth is an equal opportunity employer.
14. Quantities. The City reserves the right to increase or decrease the quantities of items within reason, unless otherwise noted.
15. Prevailing Wages. Per Sec 2-26 of Duluth City Code, payment of not less than the prevailing wage and salary rates specified in the contract documents and the conditions of employment with respect to certain categories and classifications of employees is required for all construction type projects estimated to exceed \$2,000. This does not apply to off-site production and manufacturing of parts and supplies.
16. Validity of Bids. All bids must remain firm for 60 days from the date of bid opening, unless another period is noted in bid documents or if an extension is agreed upon, in writing prior to the end of the 60-day period.
17. Insurance. All vendors doing work on City property, except vendors making routine deliveries, shall submit an insurance certificate verifying insurance coverage as per current City requirements.
18. Reports. Contractors will be required to provide all data required by the city, state or federal funding source(s) for reporting purposes; including, but not limited to job creation and retention data, itemized invoices, payroll records, certifications and licenses.



Purchasing Division
Finance Department
Room 120
411 West First Street
Duluth, Minnesota 55802

218-730-5340
purchasing@duluthmn.gov

LABOR COST BIDDING DATA

Solicitation No.: 25-AA03
Project Title: Spirit Mountain Chair Lift Replacement

Funding sources for City of Duluth projects determine what wages and work hours are required. The project identified above includes the funding sources checked below.

- ☐ Federal funds
- ☒ State funds (cash, not G.O. bonds)
- ☒ City funds
- ☐ Other:

Per the Duluth City Code, prevailing wages must be paid on projects of \$2,000 or more. The prevailing wage decisions included in this project are listed below. If multiple wage decisions cover the work, bidders are required to pay the higher wage:

1. MN State Highway Heavy Wage Decision for Region 1, revised 12/9/2024
2. MN State Truck Rental Rates, increased 5/1/2024

This project will include a project labor agreement (PLA) if \$150,000 or more. Please note that union scale wage may or may not be higher than the minimum prevailing wages required. If a PLA is included, bidders are required to pay the higher of either the union labor rates or the wage decisions included.

Overtime rate to be paid at no less than 1 ½ times the rate of pay, plus fringe, as established in the project's wage decision OR 1 ½ times the base rate the employee is being paid, plus fringe; whichever is higher. Overtime must be paid on:

- ☒ hours worked in excess of 8 hours per day (even if less than 40 hours worked in a week) and hours worked in excess of 40 hours per week per state statute
- ☐ hours worked in excess of 40 hours per week per federal regulation
- ☐ hours worked in excess of 8 hours per day and 40 hours per week, unless the bidder has an existing union labor agreement allowing different hours as prescribed in section 2-26 of the City Code.



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: 2024-11-18 Revised: 2024-12-09

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

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

Violations on MnDOT highways and road projects should be reported to:

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

All other prevailing wage violations and questions should be sent 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

<u>LABOR CODE AND CLASS</u>	<u>EFFECT</u>	<u>BASIC</u>	<u>FRINGE</u>	<u>TOTAL</u>
	<u>DATE</u>	<u>RATE</u>	<u>RATE</u>	<u>RATE</u>

<u>LABOR CODE AND CLASS</u>		<u>EFFECT</u>	<u>BASIC</u>	<u>FRINGE</u>	<u>TOTAL</u>
		<u>DATE</u>	<u>RATE</u>	<u>RATE</u>	<u>RATE</u>
LABORERS (101 - 112) (SPECIAL CRAFTS 701 - 730)					
101	LABORER, COMMON (GENERAL LABOR WORK)	2024-11-18	40.26	24.91	65.17
		2025-05-01	42.58	26.33	68.91
102	LABORER, SKILLED (ASSISTING SKILLED CRAFT JOURNEYMAN)	2024-11-18	40.26	24.91	65.17
		2025-05-01	42.58	26.33	68.91
103	LABORER, LANDSCAPING (GARDENER, SOD LAYER AND NURSERY OPERATOR)	2024-11-18	30.04	21.53	51.57
		2025-05-01	31.66	22.78	54.44
104	FLAG PERSON	2024-11-18	38.44	26.72	65.16
		2025-05-01	40.81	28.08	68.89
105	WATCH PERSON	2024-11-18	30.58	21.77	52.35
106	BLASTER	2024-11-18	38.53	22.67	61.20
107	PIPELAYER (WATER, SEWER AND GAS)	2024-11-18	43.76	24.91	68.67
		2025-05-01	46.08	26.33	72.41
108	TUNNEL MINER	2024-11-18	35.63	22.02	57.65
109	UNDERGROUND AND OPEN DITCH LABORER (EIGHT FEET BELOW STARTING GRADE LEVEL)	2024-11-18	41.76	24.91	66.67
		2025-05-01	44.08	26.33	70.41

<u>LABOR CODE AND CLASS</u>		<u>EFFECT</u>	<u>BASIC</u>	<u>FRINGE</u>	<u>TOTAL</u>
		<u>DATE</u>	<u>RATE</u>	<u>RATE</u>	<u>RATE</u>
110	SURVEY FIELD TECHNICIAN (OPERATE TOTAL STATION, GPS RECEIVER, LEVEL, ROD OR RANGE POLES, STEEL TAPE MEASUREMENT; MARK AND DRIVE STAKES; HAND OR POWER DIGGING FOR AND IDENTIFICATION OF MARKERS OR MONUMENTS; PERFORM AND CHECK CALCULATIONS; REVIEW AND UNDERSTAND CONSTRUCTION PLANS AND LAND SURVEY MATERIALS). THIS CLASSIFICATION DOES NOT APPLY TO THE WORK PERFORMED ON A PREVAILING WAGE PROJECT BY A LAND SURVEYOR WHO IS LICENSED PURSUANT TO MINNESOTA STATUTES, SECTIONS 326.02 TO 326.15.	2024-11-18	40.26	24.91	65.17
		2025-05-01	42.58	26.33	68.91
111	TRAFFIC CONTROL PERSON (TEMPORARY SIGNAGE)	2024-11-18	38.44	26.72	65.16
		2025-05-01	40.81	28.08	68.89
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.	2024-11-18	30.00	19.85	49.85
SPECIAL EQUIPMENT (201 - 204)					
201	ARTICULATED HAULER	2024-11-18	44.67	26.90	71.57
		2025-05-05	46.25	29.40	75.65
202	BOOM TRUCK	2024-11-18	47.25	26.90	74.15
		2025-05-05	48.96	29.40	78.36
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	2024-11-18	24.00	16.96	40.96

<u>LABOR CODE AND CLASS</u>		<u>EFFECT</u>	<u>BASIC</u>	<u>FRINGE</u>	<u>TOTAL</u>
		<u>DATE</u>	<u>RATE</u>	<u>RATE</u>	<u>RATE</u>
204	OFF-ROAD TRUCK	2024-11-18	44.67	26.90	71.57
		2025-05-05	46.25	29.40	75.65
205	PAVEMENT MARKING OR MARKING REMOVAL EQUIPMENT (ONE OR TWO PERSON OPERATORS); SELF-PROPELLED TRUCK OR TRAILER MOUNTED UNITS.	2024-11-18	41.29	23.48	64.77

HIGHWAY/HEAVY POWER EQUIPMENT OPERATOR

GROUP 2		2024-11-18	45.61	26.90	72.51
		2025-05-05	47.24	29.40	76.64
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		2024-11-18	45.01	26.90	71.91
		2025-05-05	46.61	29.40	76.01
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				

<u>LABOR CODE AND CLASS</u>		<u>EFFECT</u>	<u>BASIC</u>	<u>FRINGE</u>	<u>TOTAL</u>
		<u>DATE</u>	<u>RATE</u>	<u>RATE</u>	<u>RATE</u>
321	TRUCK CRANE . CRAWLER CRANE (HIGHWAY AND HEAVY ONLY)				
322	TUGBOAT 100 H.P AND OVER (HIGHWAY AND HEAVY ONLY)				
GROUP 4		2024-11-18	44.67	26.90	71.57
		2025-05-05	46.25	29.40	75.65
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				

<u>LABOR CODE AND CLASS</u>		<u>EFFECT</u>	<u>BASIC</u>	<u>FRINGE</u>	<u>TOTAL</u>
		<u>DATE</u>	<u>RATE</u>	<u>RATE</u>	<u>RATE</u>
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		2024- 11-18	41.36	26.90	68.26
		2025- 05-05	42.77	29.40	72.17
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		2024- 11-18	40.02	26.90	66.92
		2025- 05-05	41.37	29.40	70.77
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				

<u>LABOR CODE AND CLASS</u>		<u>EFFECT</u>	<u>BASIC</u>	<u>FRINGE</u>	<u>TOTAL</u>
		<u>DATE</u>	<u>RATE</u>	<u>RATE</u>	<u>RATE</u>
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	2024-11-18	38.55	23.70	62.25
	2025-04-28	40.88	24.70	65.58
601	MECHANIC . WELDER			
602	TRACTOR TRAILER DRIVER			
603	TRUCK DRIVER (HAULING MACHINERY INCLUDING OPERATION OF HAND AND POWER OPERATED WINCHES)			
GROUP 2	2024-11-18	37.95	23.70	61.65
	2025-04-28	40.25	24.70	64.95
604	FOUR OR MORE AXLE UNIT, STRAIGHT BODY TRUCK			
GROUP 3	2024-11-18	37.84	23.70	61.54
	2025-04-28	40.13	24.70	64.83
605	BITUMINOUS DISTRIBUTOR DRIVER			
606	BITUMINOUS DISTRIBUTOR (ONE PERSON OPERATION)			
607	THREE AXLE UNITS			
GROUP 4	2024-11-18	37.57	23.70	61.27
	2025-04-28	39.85	24.70	64.55
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	2024-11-18	45.56	20.20	65.76
-----	------------------------------	------------	-------	-------	-------

<u>LABOR CODE AND CLASS</u>		<u>EFFECT</u>	<u>BASIC</u>	<u>FRINGE</u>	<u>TOTAL</u>
		<u>DATE</u>	<u>RATE</u>	<u>RATE</u>	<u>RATE</u>
702	BOILERMAKERS	2024-11-18	46.00	31.93	77.93
		2025-01-01	48.35	31.93	80.28
703	BRICKLAYERS	2024-11-18	45.69	30.93	76.62
704	CARPENTERS	2024-11-18	42.25	31.75	74.00
		2025-01-01	42.25	31.75	74.00
		2025-05-01	47.45	31.75	79.20
705	CARPET LAYERS (LINOLEUM)	2024-11-18	32.13	12.85	44.98
706	CEMENT MASONS	2024-11-18	45.12	23.56	68.68
		2025-05-01	48.56	24.04	72.60
707	ELECTRICIANS	2024-11-18	47.28	33.43	80.71
		2025-06-01	49.02	34.18	83.20
711	GROUND PERSON	2024-11-18	33.40	16.30	49.70
712	IRONWORKERS	2024-11-18	41.19	35.68	76.87
713	LINEMAN	2024-11-18	47.71	20.31	68.02
714	MILLWRIGHT	2024-11-18	44.38	28.92	73.30
		2025-01-01	44.38	28.92	73.30
		2025-05-01	48.13	29.41	77.54
715	PAINTERS (INCLUDING HAND BRUSHED, HAND SPRAYED, AND THE TAPING OF PAVEMENT MARKINGS)	2024-11-18	45.50	27.69	73.19
716	PILEDRIIVER (INCLUDING VIBRATORY DRIVER OR EXTRACTOR FOR PILING AND SHEETING OPERATIONS)	2024-11-18	45.71	29.73	75.44
		2025-01-01	45.71	29.73	75.44

<u>LABOR CODE AND CLASS</u>		<u>EFFECT</u>	<u>BASIC</u>	<u>FRINGE</u>	<u>TOTAL</u>
		<u>DATE</u>	<u>RATE</u>	<u>RATE</u>	<u>RATE</u>
		2025-05-01	49.46	30.23	79.69
717	PIPEFITTERS . STEAMFITTERS	2024-11-18	50.64	25.78	76.42
719	PLUMBERS	2024-11-18	41.02	22.03	63.05
721	SHEET METAL WORKERS	2024-11-18	53.71	34.57	88.28
		2025-05-01	57.96	34.57	92.53
723	TERRAZZO WORKERS	FOR RATE CALL 651-284-5091 OR EMAIL DLI.PREWWAGE@STATE.MN.US			
724	TILE SETTERS	FOR RATE CALL 651-284-5091 OR EMAIL DLI.PREWWAGE@STATE.MN.US			
725	TILE FINISHERS	FOR RATE CALL 651-284-5091 OR EMAIL DLI.PREWWAGE@STATE.MN.US			
727	WIRING SYSTEM TECHNICIAN	2024-11-18	44.61	20.16	64.77
728	WIRING SYSTEMS INSTALLER	2024-11-18	33.44	17.82	51.26
		2025-07-01	35.78	18.73	54.51
729	ASBESTOS ABATEMENT WORKER	2024-11-18	36.13	22.45	58.58
730	SIGN ERECTOR	FOR RATE CALL 651-284-5091 OR EMAIL DLI.PREWWAGE@STATE.MN.US			

[Select another region](#) | [Commercial](#) | [Residential](#)

[Prevailing wage](#) | [Notifications](#) | [Commercial](#) | [Highway and heavy](#)

APPRENTICESHIP
AND DUAL
TRAINING

CODES AND
LAWS

CONSTRUCTION
CONTRACTOR
REGISTRATION

ELECTRICAL
CONTRACTORS

ELEVATOR
CONTRACTORS

EMPLOYMENT
PRACTICES

Age, hours restrictions

Brochures and fact
sheets about labor
standards

Child labor laws

Contact Labor
Standards

Earned sick and safe
time (ESST)

Earned sick and safe
time outreach toolkit

[For business](#) > [Employment practices](#) > Prevailing-wage: Minimum truck rental rates by region

PREVAILING WAGE: REGION 1 MINIMUM TRUCK RENTAL RATES

The operating costs were determined by survey on a statewide basis. The operating cost for “four or more axle units, straight-body trucks” is determined to be \$51.50 an hour. The operating cost for “three-axle units” is determined to be \$37.35 an hour. The operating cost for “tractor only” is determined to be \$54.96 an hour. The operating cost for “tractor trailers” is determined to be \$66.42 an hour.

Adding the prevailing wage for drivers of these four types of trucks from each of the state’s 10 highway and heavy construction areas to the operating costs, the minimum hourly truck rental rate for the four types of trucks in each area is certified as follows:

Region 1 minimum hourly truck rental rates

Effective date	Tractor trailer	Four or more axle	Three axle	Tractor only
Dec. 18, 2023	\$125.71	\$110.21	\$95.96	\$114.25
Increase May 1, 2024	\$128.67	\$113.15	\$98.89	\$117.21

[MAIN TRUCK RENTAL RATES PAGE ►](#)

[BACK TO LIST OF REGIONS ►](#)

CITY OF DULUTH
GENERAL CONDITIONS FOR CONSTRUCTION CONTRACTS
Spirit Mountain Chair Lift Replacement

TABLE OF CONTENTS

101.	DEFINITIONS	3
102.	COMMUNICATIONS	4
103.	SUPERINTENDENCE BY CONTRACTOR	4
104.	PERMITS.....	4
105.	SUBCONTRACTS	5
106.	OTHER CONTRACTS.....	5
107.	FITTING AND COORDINATION OF THE WORK	5
108.	RESPONSIBILITIES OF CONTRACTOR.....	5
109.	MUTUAL RESPONSIBILITY OF CONTRACTORS.....	6
110.	PROGRESS SCHEDULE	6
111.	PAYMENTS	6
112.	CHANGES IN THE WORK.....	7
113.	GENERAL GUARANTY	8
114.	BREACH OF CONTRACT	9
115.	TERMINATION	9
116.	LIQUIDATED DAMAGES.	10
117.	DISPUTES.	10
118.	FORCE MAJEURE	10
119.	TECHNICAL SPECIFICATIONS AND DRAWINGS	10
120.	ONE-CALL EXCAVATION NOTICE SYSTEM	10
121.	SHOP DRAWINGS	11
122.	REQUEST FOR SUPPLEMENTARY INFORMATION	11
123.	MATERIALS AND WORKMANSHIP	11
124.	SAMPLES, CERTIFICATES AND TESTS	12
125.	RESTRICTED ACCESS	13
126.	CARE OF WORK	13
127.	ACCIDENT PREVENTION AND SAFETY	13
128.	USE OF PREMISES.....	14
129.	INSPECTION	15
130.	REVIEW BY THE CITY	16
131.	PARTIAL USE OF IMPROVEMENTS	16

132.	FINAL INSPECTION.....	16
133.	CORRECTION FOR NON-CONFORMING WORK.....	16
134.	INDEMNITY FOR CONTRACTS OVER \$1 MILLION ESTIMATED CONSTRUCTION COSTS.....	16
135.	WARRANTY OF TITLE	16
136.	ENVIRONMENTAL CONDITIONS	17
137.	EQUAL EMPLOYMENT OPPORTUNITY	17

101. DEFINITIONS

Except as specifically provided herein, the following meanings shall be given to the terms defined below:

- a. Addenda (Addendum). A document listing any changes, revisions or clarifications of the Contract Documents which have been duly issued by the City to prospective bidders prior to the bid submission deadline.
- b. Architect. The architect or engineer licensed to practice architecture or engineering and to serve the City with architectural or engineering services, or their authorized representative or successor.
- c. Change Order. A written order from the City to the Contractor, issued after execution of the Contract, which authorizes and directs a change in the Work or an adjustment in the contract sum or the contract time. The contract sum and the contract time may be changed only by Change Order.
- d. City. The City of Duluth, Minnesota, a municipal body, acting through the Project Manager or other person(s) duly authorized to act on behalf of the City of Duluth for the purpose of administering the Project.
- e. Contract. The agreement executed by the City, between the City and the Contractor, of which these GENERAL CONDITIONS form a part.
- f. Contractor. An entity, whether public or private, which furnishes to the City, products, services or supplies (other than standard commercial supplies, office space or printing services).
- g. Contract Documents. Includes the following: Executed Agreement, Addenda (if any), Invitation for Bids, Instructions to Bidders, Signed Copy of Bid, General Conditions – Part I, Supplemental Conditions – Part II, Technical Specifications, and Drawings (as listed in the Schedule of Drawings), and all requested submittals such as Certificate of Insurance, performance and payment bonds, EEO Affirmative Action Policy Statement & Compliance Certificate, Certificate of Non-Collusion, etc., whether the Contract Documents are paper, electronic or other medium.
- h. Contract Time. The period of time allotted in the Contract for completion of the Work.
- i. Date of Commencement of Work. The date established in a notice to proceed issued by the City to the Contractor.
- j. Date of Substantial Completion of the Work. The date certified by the City when construction is sufficiently complete, in accordance with the Contract, so the City may occupy the Work for the use for which it is intended.
- k. Day. The term as used herein shall mean calendar day.
- l. Drawings. The graphic and pictorial portions of the Contract Documents which show the design, location and dimensions of the Work.
- m. Field Order. A written interpretation necessary for the proper execution of the Work, in the form of drawings or other instructions issued to the Contractor by the City or the Architect.
- n. Project. 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.
- o. Project Location. The area available to the Contractor for use in performing the Work, as defined on the plans.
- p. Project Manager. For purposes of these General Conditions, the term “project manager” shall mean the delegated representative of the City denominated in Section 102, Communications, who has the responsibility for administering the Project.
- q. Specifications. Written requirements of the Work which may include materials, equipment, systems, standards or workmanship for the Work.
- r. Subcontractor. 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.
- s. Technical Specifications. That part of the Contract Documents which describes, outlines and

stipulates the quality of the materials to be furnished, the quality of workmanship required, and the methods to be used in carrying out the Work to be performed under this Contract.

- t. Work. 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.

102. COMMUNICATIONS

Unless otherwise expressly provided herein, all notices, demands, requests, instructions, approvals, and claims must be in writing addressed to the City of Duluth, to the attention of the Project Manager and Architect as follows:

CITY	Erik Birkeland City of Duluth 1532 W. Michigan St. Duluth, MN 55806
------	--

ARCHITECT	N/A
-----------	-----

Unless otherwise expressly provided herein, any notice to or demand upon the contractor must be in writing addressed to the Contractor as follows:

CONTRACTOR	Contractor Company Name Address City, MN ZIP
------------	---

Notice provided to the parties shall be sufficiently given if delivered by nationally recognized commercial overnight delivery service or mailed by registered or certified mail, postage prepaid and return receipt requested, at the addresses set forth above or at such other address as such party may from time to time designate in a written notice to the other party.

Any such notice shall be deemed to have been given as of the time of actual delivery.

This section does not apply to decisions given pursuant to Section 121, Shop Drawings.

103. SUPERINTENDENCE BY CONTRACTOR

- a. Except where the Contractor is an individual who provides personal superintendence to the Work, the Contractor shall provide a competent superintendent, satisfactory to the City and the Architect, on the Work at all times during working hours with full authority to act on the Contractor's behalf. The Contractor shall also provide an adequate staff for the proper coordination and expediting of the Work.
- b. The Contractor shall lay out its own Work and shall be responsible for all such Work executed under the Contract. Before starting Work, the Contractor shall locate all general reference points and take such steps as necessary to prevent their dislocation or destruction. If disturbed or destroyed, the Contractor shall replace as directed. The prime contractor shall lay out Work, and be responsible for its accuracy. The Contractor shall verify all figures and elevations before proceeding with the Work and will be held responsible for any error resulting from the failure to do so. All Work shall be coordinated with the City.

104. PERMITS

- a. Required permits shall be secured and paid for by the prime contractor.
- b. All Work and materials are to comply in every respect with the Building Code and all associated laws and ordinances, regulations, any applicable grant requirements, and the directions of the inspectors of buildings and other proper officials of the area in which the Work is to be constructed. Such laws, regulations, any applicable grant requirements, and directions are to be considered as part of this specification.

105. SUBCONTRACTS

- a. The Contractor shall not execute an agreement with any Subcontractor, or permit any Subcontractor to perform any Work included in this contract unless and until the Contractor provides the City with a sufficient First Tier Subcontractors List and accompanying signed statement under oath from each Subcontractor confirming compliance with the Responsible Contractor Criteria under Minnesota law, Minn. Stat. §16C.285 or its successor, using substantially the form attached hereto.
- b. The City shall have the right to disapprove a proposed Subcontractor if, in its reasoned discretion, there is cause to disapprove such Subcontractor. For purposes of this provision, "cause" is a determination based upon an evaluation of the ability of the Subcontractor to perform the Subcontract in conformance with the plans and specifications, including but not limited to, the Subcontractor's past performance, capacity to perform the Work, or ability to meet the Responsible Contractor Criteria.
- c. The Contractor shall be as fully responsible to the Owner for the acts and omissions of its Subcontractors, and of persons either directly or indirectly employed by them, as for the acts and omissions of persons directly employed by the Contractor.
- d. The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to require compliance by each Subcontractor with the applicable provisions of this Contract.
- e. Nothing contained in this Contract shall create any contractual relationship between the Subcontractor and the City.

106. OTHER CONTRACTS

The City may award, or may have awarded, other contracts for additional Work, and the Contractor shall cooperate fully with such other Contractors, by scheduling its own Work with that to be performed under other Contracts as may be directed by the City. The Contractor shall not commit or permit any act which will interfere with the performance of Work by any other Contractor as scheduled.

107. FITTING AND COORDINATION OF THE WORK

- a. The Contractor shall be responsible for the proper fitting of all Work and for the coordination of the operations of all trades, Subcontractors, or materialmen engaged upon this Contract, and shall be prepared to guarantee to each of its Subcontractors the locations and measurements which they may require for the fitting of their Work to all surrounding Work.
- b. Each Subcontractor shall inspect the surfaces over which its Work will be installed prior to starting Work. Each Subcontractor shall present notice of unacceptable surfaces to the prime contractor, who shall correct same in a manner acceptable to the City. Subcontractor's start of Work denotes acceptance of surfaces and acceptance of responsibility for acceptable final results.

108. RESPONSIBILITIES OF CONTRACTOR

Except as otherwise specifically stated in the contract documents and technical specifications, the prime contractor shall provide and pay for all materials, labor, tools, equipment, water, light, heat, power, transportation, superintendence, temporary construction of every nature, charges, levies, fees, or other expenses and all other services and facilities of every nature whatsoever necessary for the performance of

the contract, and to deliver all improvements embraced in this contract for site preparation complete in every respect within the specified time.

109. MUTUAL RESPONSIBILITY OF CONTRACTORS

If, through acts or neglect on the part of the Contractor, any other Contractor or any Subcontractor shall suffer loss or damage on the Work, the Contractor shall settle with such other Contractor or Subcontractor by agreement or arbitration, if such other Contractor or Subcontractor will so settle. If such other Contractor or Subcontractor shall assert any claim against the City on account of damage alleged to have been so sustained, the City shall notify this Contractor, who shall defend at its own expense any suit based upon such claim, and, if any judgment or claims against the City shall be allowed, the Contractor shall pay or satisfy such judgment or claim and pay all costs and expenses in connection therewith.

110. PROGRESS SCHEDULE

Immediately after execution of the Contract, the Contractor shall submit for approval a carefully prepared Progress Schedule, showing the proposed start and completion dates of each of the various sections of the Work, the anticipated monthly payments to become due the Contractor and the accumulated percent of progress each month. The Schedule shall not exceed the current time limits under the Contract Documents. The Schedule may be revised at appropriate intervals as required by the conditions of the Work and the Project.

111. PAYMENTS

a. Partial Payments.

- 1) At least once per month at regular intervals, the Contractor shall prepare a request for payment and submit it to the Project Manager for approval. Certified payrolls shall accompany all requests for payment. The amount of the payment due the Contractor shall be determined by adding to the total value of Work completed to date, the value of materials properly stored on the site and deducting (1) five percent (5%) of the total amount, this sum to be retained until final payment and (2) the amount of all previous payments. The total value of the Work completed to date shall be based on the estimated quantities of Work completed and on the unit prices contained in the agreement. The value of materials properly stored on site shall be based upon the estimated quantities of such materials and the invoice prices. Copies of all invoices shall be available for inspection.
- 2) Monthly or partial payments made by the City to the Contractor are advanced for the purpose of assisting the Contractor to expedite the Work of construction. The Contractor shall be responsible for the care and protection of all materials and Work upon which payments have been made until final acceptance of such Work and materials by the City. Such payments shall not constitute a waiver of the right of the City to require the fulfillment of all terms of the Contract and the delivery of all improvements embraced in this Contract complete and satisfactory to the City in all details.

b. Final Payment.

- 1) After final inspection and acceptance by the Architect and the City of all Work under the Contract, the Contractor shall prepare a request for final payment which shall be based upon the carefully measured and computed quantity of each item of Work at the applicable unit prices stipulated in the Contract. The total amount of the final payment due the Contractor under this Contract shall be the amount computed as described above less all previous payments. Final payment to the Contractor shall be made subject to its furnishing the City with a release in satisfactory form of all claims against the City arising under and by virtue of the contract, other than such claims, if any, as may be specifically excepted by the Contractor from the operation of the release as provided under Section 117, Disputes.
- 2) The City, before paying the final estimate, may require the Contractor to furnish releases or receipts from all Subcontractors having performed any Work and all persons having supplied

materials, equipment (installed on the Project) and services to the Contractor, if the City deems the same necessary in order to protect its interest. The City, however, may make payment in part or in full to the Contractor without requiring the furnishing of such releases or receipts and any payments so made shall in no way impair the obligations of any surety or sureties furnished under this Contract.

- 3) The Contractor and all of its Subcontractors shall comply with Minnesota Statutes, § 290.92 or its successor. Pursuant to Minnesota Statutes, §290.97, the City will not issue final payment to the Contractor prior to receipt of an "Affidavit for Obtaining Final Settlement of Contractor with the State of Minnesota and Any of Its Political or Governmental Subdivisions" (Form IC-134) from the Contractor and from each of the Contractor's Subcontractors (if any). The Contractor and Subcontractors shall submit to the City original copies of Form IC-134 already fully executed by the Commissioner of Revenue of the State of Minnesota. It shall be the responsibility of the Contractor to ensure that all of the affidavits herein required are submitted to the owner.
- c. Withholding Payments. The City may withhold from any payment otherwise due the Contractor so much as may be necessary to protect the City and, if it so elects, may also withhold any amounts due from the Contractor to any Subcontractors or material dealers for Work performed or material furnished by them, including liquidated damages, if any. The foregoing provisions shall be construed solely for the benefit of the City and will not require the City to determine or adjust any claims or disputes between the Contractor and its Subcontractors or material dealers, or to withhold any moneys for their protection unless the City elects to do so. The failure or refusal of the City to withhold any moneys from the Contractor shall in no way impair the obligations of any surety or sureties under any bond or bonds furnished under this Contract.
- d. Payments Subject to Submission of Certificates. Each payment to the Contractor by the City shall be made subject to submissions by the Contractor of all written certifications required by the contract.
- e. Per Minnesota Statute § 471.425, Subd. 2(a), payment terms shall be Net 35.

112. CHANGES IN THE WORK

- a. The City may make changes in the scope of Work required to be performed by the Contractor under the Contract without invalidating the Contract, and without relieving the Contractor from any of its obligations under the Contract or any guarantee given by it pursuant to the Contract provisions, and without affecting the validity of the guaranty bonds, and without relieving or releasing the surety or sureties of said bonds. All changes in the Scope of Work, whether or not the change increases or decreases the total Contract Price, shall require a Change Order and such Work shall be executed under the terms of the original Contract unless expressly provided otherwise.
- b. Except for the purpose of affording protection against any emergency endangering health, life, or property, the Contractor shall make no change in the materials used or in the specified manner of constructing and/or installing the Improvements or supply additional labor, services, or materials beyond that actually required for the execution of the Contract, unless authorized in writing by a Change Order approved by the City. No claim for an adjustment of the Contract Price will be valid unless so authorized.
- c. If a Change Order is requested by either party, the Party requesting the Change Order shall prepare the written Change Order and the Contractor shall prepare and provide to City an itemized proposal stating the increase or decrease in the cost of each of the proposed changes to the Work involved in the Change Order and the net total change in the cost of the Change Order calculated as provided for in Subparagraph d. below, after which the procedure shall be as follows:
 - 1) If the Architect is providing Construction Supervision services to the Project, the proposed Change Order shall be presented to the Architect for his or her review and, if deemed appropriate, approval.

- 2) If the proposed Change Order is approved by the Architect pursuant to Sub-subparagraph 1) above or if Construction Administration services are being performed by the Project Manager, the proposed Change Order shall be provided to the Project Manager for his or her review and approval.
 - 3) If the Change Order is so approved, the City will execute the Change Order in accordance therewith for acceptance by the Contractor.
 - 4) If the Change Order is not acceptable and prompt agreement between the two parties cannot be reached, the City may order the Contractor to proceed with the Work. The Contractor shall proceed with the Work but may preserve its right to challenge the Change in Work by promptly notifying the City that it is proceeding with the Work under protest. The parties shall then proceed in accordance with Section 117, Disputes, herein.
- d. Changes in the cost of the Contract shall be determined as follows:
- 1) If the Work being changed is covered in whole or in part by unit prices bid in the Contract, the change in the cost of the Contract as changed by the Change Order shall be determined by application of the unit prices as bid to the changes in the Work.
 - 2) As and to the extent that the change in the Work resulting from the Change Order is not covered by unit prices in the Contract, the change in the Contract price shall be determined by increases or decreases in the Contractor's actual costs for labor or materials or both to implement the Change Order plus a multiplier of ten percent (10%) of such costs; the Contractor shall be required to document its changed costs in a manner reasonably satisfactory to City. The multiplier shall not apply to costs referenced in Sub-subparagraph 1 above.
- e. Each change order shall include in its final form:
- 1) A detailed description of the change in the Work.
 - 2) The Contractor's proposal (if any).
 - 3) A definite statement as to the resulting change in the Contract price and/or time, if any.
 - 4) The statement that all Work involved in the change shall be performed in accordance with the Contract requirements except as modified by the Change Order.
- f. If the Contractor claims that any instructions by Drawings or otherwise involve extra cost or extension of time, such claims shall be submitted in writing to the City within ten (10) days after receipt of the instructions, and in any event, before proceeding to execute the Work.
- g. Claims for additional compensation for extra Work, due to alleged errors in ground elevations, contour lines, or bench marks, will not be recognized unless accompanied by certified survey data. The survey data must be made prior to the time the original ground was disturbed, and clearly show that errors exist which resulted, or would result, in handling more material, or performing more Work than would be reasonably estimated from the Drawings and maps issued.
- h. Any discrepancies which may be discovered between actual conditions and those represented by the documents shall at once be reported to the City and Work shall not proceed, except at the Contractor's risk, until written instructions have been issued by the City.
- i. If, on the basis of the available evidence, the City determines that an adjustment of the Contract Price and/or time is justifiable, the procedure shall then be as provided above for changes in the Work.

113. GENERAL GUARANTY

Contractor shall be made responsible for proper installation of all items in its contract and shall remedy, free of charge, any defects in material and workmanship and repair all damage resulting, for a period of one year from the date of final acceptance. All systems shall be in operation prior to acceptance. The beginning of the warranty period relating to faulty materials and workmanship will be established by the final acceptance of the Project by the owner. The necessity of partial occupancy of an uncompleted structure by the owner will not alter the warranty period herein defined. All Work under the Contract shall be guaranteed for a period of one (1) year from the date of final acceptance.

- a. Neither the final certificate of payment nor any provisions in the Contract nor partial or entire use of the improvements embraced in this Contract by the City or the public shall constitute an acceptance of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall promptly remedy any defects in the Work and pay for any damage to other Work resulting therefrom which subsequently appears. The City will give notice of defective materials and Work with reasonable promptness.
- b. If, within one year after the Date of Substantial Completion or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract, any of the Work is found to be defective or not in accordance with the specifications of the Contract, the Contractor shall correct it promptly upon receipt of a written notice from the City to do so, unless the City has previously given the Contractor a written acceptance of such condition or Work.

114. BREACH OF CONTRACT

The City may, subject to the Force Majeure provisions of this Contract and in addition to its other rights under the Contract, declare the Contractor in breach of the Contract by written notice thereof to the Contractor, and terminate the Contract in whole or in part, in accordance with Section 115, Termination, for reasons including but not limited to any of the following:

- a. Failure to begin the Work within the time specified in the Contract;
- b. Failure to perform the Work with sufficient labor, equipment, or material to insure the completion of the specified Work in accordance with the Contract terms;
- c. Unsatisfactory performance of the Work;
- d. Failure or refusal to remove material, or remove and replace any Work rejected as defective or unsatisfactory;
- e. Discontinuance of the Work without approval;
- f. Failure to resume the Work, which has been discontinued, within a reasonable time after notice to do so;
- g. Insolvency or bankruptcy;
- h. Failure to protect, to repair, or to make good any damage or injury to property;
- i. Breach of any provision of the Contract;
- j. Misrepresentations made in the Contractor's bid/proposal; or
- k. Failure to comply with applicable industry standards, customs, and practice.

115. TERMINATION

If the Contractor is in breach of the Contract, the City, by written notice to the Contractor, may terminate the Contractor's right to proceed with the Work. Upon such termination, the City may take over the Work and prosecute the same to completion, by contract or otherwise, and the Contractor and its sureties shall be liable to the City for any additional cost incurred by the City in its completion of the Work and they shall also be liable to the City for liquidated damages for any delay in the completion of the Work as provided below. If the Contractor's right to proceed is terminated, the City may take possession of and utilize in completing the Work such materials, tools, equipment, and plant as may be on the site of the Work and necessary therefore.

City shall have the right to terminate this contract immediately without other cause in the event that all or a portion of the funds that the City intends to use to fund its obligations under the contract have their source with the State or Federal government or any agency thereof and said source reduces or eliminates their obligation to provide some or all of the funds previously committed by it to fund City's payment obligations under the Contract. The City agrees that termination hereunder will not relieve the City of its obligation to pay Contractor for Work satisfactorily performed and reasonable costs incurred prior to the effective date of the termination provided that Contractor has not committed a breach of this Contract.

116. LIQUIDATED DAMAGES.

If the Contractor is in breach of this Contract by virtue of failing to complete the Work within the time stipulated in the Contract Documents, including any extensions of time for excusable delays as herein provided, and the City or Spirit Mountain Recreation Area Authority suffers damages as a result thereof, all or any portion of which cannot be reasonably determined as to the amount thereof because of the nature of such damages, the Contractor shall pay to the City to compensate City or Spirit Mountain Recreation Area Authority for such portion of the damages it suffered as a result thereof, the amount of \$15,000 as fixed, agreed, and liquidated damages for each calendar day of delay, until the Work is completed, and the Contractor and its sureties shall be liable to the City for the amount thereof.

117. DISPUTES.

- a. All disputes arising under this Contract or its interpretation, whether involving law or fact or both, or extra Work, and all claims for alleged breach of contract shall, within ten (10) days of the first event giving rise to the dispute, be presented by the Contractor to the City for decision. Such notice shall state the facts surrounding the claim in sufficient detail to identify the claim together with its character and scope. In the meantime, the Contractor shall proceed with the Work as directed by the City. Any claim not presented within the time limit specified within this paragraph shall be deemed to have been waived, except that if the claim is of a continuing character and notice of the claim is not given within ten (10) days of the first event giving rise to it, the claim will be considered only for a period commencing ten (10) days prior to the receipt by the City of notice thereof.
- b. The Contractor shall submit in detail its claim and proof thereof. Each decision by the City will be in writing as provided for in Section 102, Communications.
- c. If the Contractor does not agree with any decision of the City, it shall in no case allow the dispute to delay the Work but shall notify the City promptly that it is proceeding with the Work under protest and may then except the matter in question from the final release.

118. FORCE MAJEURE

The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the Work due to any acts of the Government, including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, National Defense, or any other national emergency; any acts of the City; causes not reasonably foreseeable by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, acts of another Contractor in their performance of some other contract with the City, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones, and other extreme weather conditions; nor to any delay of any Subcontractor occasioned by any of the causes specified above. The Contractor shall promptly notify the City in writing within ten (10) days of the delay. Upon receipt of such notification, the City shall ascertain the facts and the cause of the delay. If, upon the basis of facts and the terms of the Contract, the delay is properly excusable, the City shall extend the time for completing the Work for a period of time commensurate with the period of excusable delay.

119. TECHNICAL SPECIFICATIONS AND DRAWINGS

Anything mentioned in the Technical Specifications and not shown on the Drawings or shown on the Drawings and not mentioned in the Technical Specifications, shall be of like effect as if shown on or mentioned in both. In case of difference between Drawings and Technical Specifications, the Technical Specifications shall govern. In case of any discrepancy on Drawings or Technical Specifications, the matter shall be immediately submitted to the City, without whose decision said discrepancy shall not be adjusted by the Contractor, save only at its own risk and expense.

120. ONE-CALL EXCAVATION NOTICE SYSTEM

The contractor and all of its Subcontractors shall comply with Minnesota Statutes Chapter 216D., the Minnesota One-Call Excavation Notice System, if "excavation" as defined in Minnesota Statutes 216D.01., Subdivision 1., is to be performed as a part of this contract. (One-Call contact number: 1- 800-252-1166).

121. SHOP DRAWINGS

- a. All required shop drawings, machinery details, layout drawings, etc. shall be submitted to the Architect or the City, as directed by the City, for approval sufficiently in advance of requirements to afford ample time for checking, including time for correcting, resubmitting and rechecking if necessary. The Contractor may proceed, only at its own risk, with manufacture or installation of any equipment or Work covered by said shop drawings, etc. until they are approved, and no claim by the Contractor for extension of the Contract time will be granted by reason of its failure in this respect.
- b. Any drawing submitted without the Contractor's stamp of approval will not be considered and will be returned for proper resubmission. If any drawings show variations from the requirements of the Contract because of standard shop practice or other reason, the Contractor shall make specific mention of such variation in the letter of transmittal in order that, if acceptable, suitable action may be taken for proper adjustment of contract price and/or time, otherwise the Contractor will not be relieved of the responsibility for executing the Work in accordance with the Contract even though the drawings have been approved.
- c. If a shop drawing with the Contractor involves only a minor adjustment in the interest of the City not involving a change in Contract price or time, the Architect may approve the drawing. The approval shall be general, shall not relieve the Contractor from its responsibility for adherence to the Contract or for any error in the drawing, and shall contain in substance the following: "The modification shown of the attached drawing is approved in the interest of the City to effect an improvement for the Project and is ordered with the understanding that it does not involve any change in the Contract price or time; that it is subject generally to all Contract stipulations and covenants; and that it is without prejudice to any and all rights of the City under the Contract and surety bond or bonds."

122. REQUEST FOR SUPPLEMENTARY INFORMATION

It shall be the responsibility of the Contractor to make timely requests of the City for any additional information not already in its possession which should be furnished by the City under the terms of this Contract, and which will be required in the planning and execution of the Work. Such requests may be submitted in writing from time to time as the need is approached, but each shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay. Each request shall be in writing, and list the various items and the latest date by which each will be required by the Contractor. The first list shall be submitted within two (2) weeks after Contract award and shall be as complete as possible at that time. The Contractor shall, if requested, furnish promptly any assistance and information the City may require in responding to these requests of the Contractor. The Contractor shall be fully responsible for any delay in its Work or to others arising from its failure to comply fully with the provisions of this Section.

123. MATERIALS AND WORKMANSHIP

- a. Unless otherwise specifically provided for in the Technical Specifications, all workmanship, equipment, materials and articles incorporated in the Work shall be new and the best grade of the respective kinds for the purpose. Where equipment, materials, articles or workmanship are referred to in the Technical Specifications as an equal to any particular standard, the City shall decide the question of equality.
- b. The Contractor shall furnish to the City for approval the manufacturer's detailed specifications for all machinery, mechanical and other special equipment, which it contemplates installing together with full information as to type, performance characteristics, and all other pertinent information as

required, and shall likewise submit for approval as required full information concerning all other materials or articles which it proposes to incorporate in the Work. (See Section 124, Samples, Certificates and Tests)

- c. Machinery, mechanical and other equipment, materials or articles installed or used without such prior approval shall be at the risk of subsequent rejection.
- d. Materials specified by reference to the number or symbol of a specific standard, such as A.S.T.M. Standard, a Federal Specification or other similar standard, shall comply with requirements in the latest revision thereof and any amendment or supplement thereto in effect on the date of the Invitation for Bids, except as limited to type, class or grade, or modified in such reference. The Standards referred to, except as modified in the Technical Specifications shall have full force and effect as though printed therein.
- e. Any materials and equipment for which Underwriters Laboratories, Inc. (UL) standards have been established shall bear the appropriate U. L. label.
- f. The City may require the Contractor to dismiss from the Work such employee or employees as the City may deem incompetent, or careless, or insubordinate.

124. SAMPLES, CERTIFICATES AND TESTS

- a. The Contractor shall submit all material or equipment samples, certificates, affidavits, etc. as called for in the Contract Documents or required by the Architect, promptly after award of the Contract. No such material or equipment shall be manufactured or delivered to the site, except at the Contractor's own risk, until the required samples or certificates have been approved in writing by the City or the Architect. Any delay in the Work caused by late or improper submission of samples or certificates for approval shall not be considered just cause for an extension of the contract time. Each sample submitted by the Contractor shall carry a label giving the name of the Contractor, the project for which it is intended, and the name of the producer. The accompanying certificate or letter from the Contractor shall state that the sample complies with Contract requirements, shall give the name and brand of the product, its place of origin, the name and address of the producer and all specifications or other detailed information which will assist the Architect or the City in formally approving the acceptability of the sample promptly. It shall also include the statement that all materials or equipment furnished for use in the project will comply with the samples and/or certified statements.
- b. Approval of any materials shall be general only and shall not constitute a waiver of the City's right to demand full compliance with Contract requirements. After actual deliveries, the City or the Architect will have such check tests made as they deem necessary in each instance and may reject materials and equipment and accessories for cause, even though such materials and equipment have been given general approval. If materials, equipment or accessories which fail to meet check tests have been incorporated in the Work, the City or the Architect will have the right to cause their removal and replacement by proper materials or to demand and secure such reparation by the Contractor as is equitable.
- c. Except as otherwise specifically stated in the Contract, the costs of sampling and testing will be divided as follows:
 - 1) The Contractor shall furnish without extra cost, including packing and delivery charges, all samples required for testing purposes, except those samples taken on the project by the City or the Architect;
 - 2) The Contractor shall assume all costs of retesting materials which fail to meet Contract requirements;
 - 3) The Contractor shall assume all costs of testing materials offered in substitution for those found deficient; and
 - 4) The City will pay for all other testing expenses.

125. RESTRICTED ACCESS

- a. Contractor shall use and maintain in clean condition the site and building access route(s) as approved by the City. No other access points shall be used.
- b. Contractor and all other persons connected to this project shall use parking areas designated by the City.
- c. Contractor and workers shall not trespass into areas beyond those required to accomplish the Work.
- d. Contractor shall insure that operations do not compromise building safety.

126. CARE OF WORK

- a. The Contractor shall be responsible for all damages to persons or property that occur as a result of its fault or negligence in connection with the prosecution of the Work and shall be responsible for the proper care and protection of all Work performed until completion and final acceptance, whether or not the same has been covered in whole or in part by payments made by the City.
- b. In an emergency affecting the safety of life, limb or property, including adjoining property, the Contractor, without special instructions or authorization from the City, is authorized to act at its own discretion to prevent such threatened loss or injury, and shall so act. The Contractor shall likewise act if instructed to do so by the City. Any compensation claimed by the Contractor on account of such emergency Work will be determined by the City as provided in Section 112, Changes in the Work.
- c. The Contractor shall avoid allowing damage to existing sidewalks, streets, curbs, pavements, utilities (except those which are to be replaced or removed), adjoining property, etc., during the time the Project Location is within the control of the Contractor, and shall at its own expense completely repair any damage thereto caused by its operations.
- d. The Contractor shall shore up, brace, underpin, secure and protect as may be necessary all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be in any way affected by the excavations or other operations connected with the construction of the Improvements embraced in this Contract. The Contractor shall be responsible for the giving of any and all required notices to any adjacent or adjoining property owner or other party before the commencement of any Work. The Contractor shall indemnify and save harmless the City from any damages on account of settlements or the loss of lateral support of adjoining property and from all loss or expense and all damages for which the City may become liable in consequence of such injury or damage to adjoining structures and their premises.

127. ACCIDENT PREVENTION AND SAFETY

The following SAFETY provisions shall apply:

- a. The Contractor shall conform to all work safety requirements of pertinent regulatory agencies, and shall secure the project site for the working conditions in compliance with the same. The Contractor shall erect such signs and other devices as are necessary for the safety of the project site.
- b. The Contractor shall also perform all of the Work in accordance with applicable Occupational Safety and Health Administration (OSHA) standards.
- c. The Contractor shall provide traffic control meeting Manual on Uniform Traffic Control Devices (MUTCD) standards.
- d. The Contractor shall, at the pre-construction conference, designate a Safety Coordinator who shall be responsible for safety and traffic control management for the Project. The Safety Coordinator

shall be either an employee of the Contractor such as a superintendent or a foreman, or an employee of a firm which has a subcontract for overall project safety and traffic control management for the Project.

- e. The safety of pedestrians and the traveling public is the Contractor's responsibility.
- f. The Contractor shall provide and maintain sanitary and safety accommodations for the use and protection, health and welfare of the Contractor's employees and suppliers in accordance with the following applicable safety and health codes and regulations:
 - 1) Federal,
 - 2) State,
 - 3) Local, and
 - 4) Other bodies and tribunals having jurisdiction.
- g. The Contractor shall refer to the employee safety and sanitation regulations as specified in 29 CFR 1926, Occupational Safety & Health Administration (OSHA), Construction Industry Standards, MN Statutes Chapter 182; and Minnesota Department of Labor & Industry, OSHA Division, Minnesota Rules Chapters 5205 to 2515 inclusive.
- h. The Contractor shall provide, install, maintain, and remove required safety and health related Equipment and provisions, at no additional extra cost to the City. The safety and health related Equipment and provisions shall comply with the applicable codes and regulations, be in operable condition, and allow City personnel to perform required duties at the appropriate time.
- i. The Contractor shall allow the entry of Federal, State, and local safety and health inspectors to perform inspections or investigations.
- j. The Contractor shall perform construction operations in accordance with applicable laws, regulations and industry standards as specified in this section. The Contractor is responsible for the development, implementation, and enforcement of safety requirements of the Project, regardless of any actions the City may take to help ensure compliance with these requirements.
- k. The Contractor shall conduct operations and perform the Work in a manner that causes the least possible obstruction to traffic. The Contractor shall provide for the safety of the general public and for the residents living beside the Highway.
- l. The Contractor shall provide temporary facilities to allow pedestrian travel over or through obstructions at public walkways and at other locations designated by the Architect. The Contractor shall adequately fence and post conspicuous warning signs around hazardous open excavations or open excavations that contain water.
- m. The Contractor shall notify the local fire and police chiefs to allow time to rearrange routes of emergency vehicles before blockading a street. The Contractor shall keep the local fire and police chiefs informed about the status and removal of street blockades affecting emergency vehicle travel. The Contractor shall not obstruct access to fire hydrants without the approval of the local fire chief.

128. USE OF PREMISES

- a. The Contractor shall be in control of the Project Location, except as provided for in Section 131, Partial Use of Improvements, until such time as the City conducts its final inspection as set forth in Section 132, Final Inspection.
- b. The Contractor shall, periodically or as directed during the progress of the Work, remove and legally dispose of all surplus excavated material and debris, and keep the Project Location and public rights of way reasonable clear.

- c. Contractor shall at all times keep the premises free from accumulation of waste materials caused by its operations. At the completion of the Work, all temporary construction facilities, debris and waste materials shall be removed from the project as well as all tools, construction equipment and surplus materials. The Project Site shall be left in a neat and clean condition. Trash burning on the site of the Work will be subject to prior approval of the City and existing State and local regulations.
- d. Contractor shall restore and replace in a suitable manner all property both public and private which has been damaged or removed in the performance of this contract. The site of the Work is meant to include portions of any and all buildings or structures and adjacent portions of any street, alleys, lawns, sidewalks, driveways, or property used in executing the Work.
- e. If the Contractor fails to clean up, the City may do so and the cost thereof charged to the Contractor.

129. INSPECTION

- a. All materials and workmanship shall be subject to inspection, examination or test by the City or the Architect at any and all times during manufacture or construction and at any and all places where such manufacture or construction is carried on. The City shall have the right to reject defective or substandard material and workmanship or require its correction. Unacceptable workmanship shall be satisfactorily corrected. Rejected material shall be promptly segregated and removed from the Project Location and replaced with material of specified quality without charge. If the Contractor fails to proceed at once with the correction of rejected workmanship or defective material, the City may contract or otherwise have the defects remedied or rejected materials removed from the Project Location and charge the cost of the same against any moneys which may be due the Contractor, without prejudice to any other rights or remedies of the City.
- b. The Contractor shall furnish promptly all materials reasonably necessary for any tests which may be required. (See Section 124, Samples, Certificates and Tests). All tests by the City will be performed in such a manner as not to delay the Work unnecessarily and will be made in accordance with the provisions of the Technical Specifications.
- c. The Contractor shall notify the City sufficiently in advance of back-filling or concealing any facilities to permit proper inspection. If any facilities are concealed without approval or consent by the City, the Contractor shall uncover for inspection and recover such facilities all at its own expense, when so requested by the City. Should it be considered necessary or advisable by the City at any time before final acceptance of the entire Work to make an examination of Work already completed by uncovering the same, the Contractor shall on request promptly furnish all necessary facilities, labor, and material. If such Work is found to be defective in any important or essential respect, due to fault of the Contractor or its Subcontractors, the Contractor shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such Work is found to meet the requirements of the Contract, the actual cost of labor and material necessarily involved in the examination and replacement, plus 10% to cover superintendence, general expenses and profit, shall be allowed the Contractor and it shall, in addition, if completion of the Work of the entire Contract has been delayed thereby, be granted a suitable extension of time on account of the additional Work involved.
- d. Inspection of materials and appurtenances to be incorporated in the Improvements embraced in this Contract may be made at the place of production, manufacture or shipment, whenever the quantity justifies it, and such inspection and acceptance, unless otherwise stated in the Technical Specifications, shall be final, except as regards (1) latent defects, (2) departures from specific requirements of the Contract, (3) damage or loss in transit, or (4) fraud or such gross mistakes as amount to fraud. Subject to the requirements contained in the preceding sentence, the inspection of materials as a whole or in part will be made at the Project Site.
- e. Neither inspection, testing, approval nor acceptance of the Work in whole or in part, by the City or its agents shall relieve the Contractor or its sureties of full responsibility for materials furnished or

Work performed not in strict accordance with the Contract.

130. REVIEW BY THE CITY

The City, its authorized representatives and agents, and the Architect, shall, at all times have access to and be permitted to observe and review all Work, materials, equipment, payrolls, personnel records, employment conditions, and other relevant data and records pertaining to this Contract; provided, however, that all instructions and approvals with respect to Work will be given to the Contractor only by the City through its authorized representative or agents.

131. PARTIAL USE OF IMPROVEMENTS

The City, at its election, may give notice to the contractor(s) and place in use those sections of the improvements which have been completed, inspected, and can be accepted as complying with the technical specifications, and if in its opinion each such section is reasonably safe, fit, and convenient, for the use and accommodation for which it was intended, provided:

- a. The use of such sections of the improvements shall in no way impede the completion of the remainder of the Work by the contractor.
- b. The contractor shall not be responsible for any damages or maintenance costs due directly to the use of such sections.
- c. The use of such sections shall in no way relieve the contractor of its liability due to having used defective materials or to poor workmanship.
- d. The guarantee stipulated in the Section 113, General Guaranty, shall not begin to run until the date of the final acceptance of all Work which the contractor is required to construct under this contract.

132. FINAL INSPECTION

When the Work embraced in this Contract is substantially completed, the Contractor shall notify the City in writing that the Work will be ready for final inspection on a definite date which shall be stated in such notice. The notice shall bear the signed concurrence of the representative of the City having charge of inspection. If the City determines that the status of the Improvements is as represented, it will make the arrangements necessary to have final inspection commenced on the date stated in such notice, or as soon thereafter as is practicable.

133. CORRECTION FOR NON-CONFORMING WORK

If at any time the Contractor's Work does not comply with the plans and specifications, the Contractor shall remove the non-complying Work and replace it with complying Work and shall bear all costs related thereto.

134. INDEMNITY FOR CONTRACTS OVER \$1 MILLION ESTIMATED CONSTRUCTION COSTS

For contracts with an estimated construction cost exceeding one million (\$1,000,000) dollars, in addition to any indemnification required under Section 6 of the Contract, the Contractor shall purchase insurance as provided in Minnesota Statutes Section 337.05, as most recently amended, for the benefit of the Owner and their agents and employees, which shall compensate them from any loss due to all claims, damages, losses, and expenses, including a minimum coverage of not less than \$2.5 million per claim and \$5 million per occurrence plus an appropriate amount of property damage for the size of the project. Copies of the contract of insurance shall be provided to the Owner and shall name these parties as an Additional Insured.

135. WARRANTY OF TITLE

No material, supplies, or equipment to be installed or furnished under this Contract shall be purchased subject to any chattel mortgage or under a conditional sale, lease-purchase or other agreement by which an interest therein or in any part thereof is retained by the seller or supplier. The Contractor shall warrant good title to all materials, supplies, and equipment installed or incorporated in the Work and upon

completion of all Work, shall deliver the same together with all improvements and appurtenances constructed or placed thereon by him to the City free from any claims, liens, or charges. Neither the Contractor nor any person, firm or corporation furnishing any material or labor for any Work covered by this Contract shall have any right to a lien upon any improvement or appurtenance thereon.

136. ENVIRONMENTAL CONDITIONS

It shall be the Contractor's obligation to ensure that in performance of the Work it complies with all applicable Minnesota Pollution Control Agency (MPCA) and Environmental Protection Agency (EPA) requirements that would impact directly or indirectly the Work to be performed subject to the specific directions contained in the Project plans and specifications and the Contractor shall call to the attention of the City any discrepancies that the Contractor becomes aware of between the requirements of those agencies and the plans and specifications.

137. EQUAL EMPLOYMENT OPPORTUNITY

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

- a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. 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.
- b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 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 to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, 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 administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**ATTACHMENT A
PRIME CONTRACTOR RESPONSE**

RESPONSIBLE CONTRACTOR VERIFICATION AND CERTIFICATION OF COMPLIANCE

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.

<p>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...</p>	
<p>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:</p>	
(1)	<p>The Contractor:</p> <ul style="list-style-type: none">(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)	<p>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, 181.03, 181.101, 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:</p> <ul style="list-style-type: none">(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;*(vii) has been convicted of a violation of section 609.52, subd 2 (19).

(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

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

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:	

DECLARATION 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 declaration.

Signed: _____

Firm Name: _____

Bidder's Federal Identification Number _____

EQUAL EMPLOYMENT OPPORTUNITY (EEO) AFFIRMATIVE ACTION POLICY STATEMENT & COMPLIANCE CERTIFICATE

It is the policy of the Contractor to afford equal opportunity for employment to all individuals. Except when based on a bona fide occupational qualification, Contractor shall not refuse to hire or to maintain a system of employment which unreasonably excludes a person seeking employment; discharge an employee; or discriminate against a person with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, familial status, membership or activity in a local commission, disability, sexual orientation, or age.

Unless exempted by law and regulation, Contractor shall make available and file those reports related to equal opportunity as may be required by the City of Duluth, State and/or Federal compliance agencies. Requirements and Reports are defined in Minnesota Statute 363A.08 and 41 CFR 60.

Contractor 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.

Unless exempted by regulation and law, Contractors with 50 or more employees and current contracts with the City of Duluth valued in excess of \$50,000 shall prepare and maintain a written affirmative action compliance program that meets the requirement as set forth in 41CFR60.

Contractor 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.

For construction projects, it shall be the goal of the Contractor 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. In addition, it shall be the goal of the Contractor 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.

Contractor agrees to require all subcontractors receiving over \$2,500, regardless of tier and unless exempted by law and regulation, to execute an Equal Employment Opportunity and Affirmative Action Compliance Statement similar in nature to this Statement and Certification and to maintain these statements on file with the Contractor or subcontractor as may be appropriate.

Executed this _____ day of _____, 20____ by:

Printed name, title and email

Signature

Contractor Company Name & Phone: _____

Contractor Address: _____

Project: _____

City of Duluth
Supplementary Provisions – State Funding
25-AA03 Spirit Mountain Chair Lift Replacement

1. Disbursements

- a. No money under this Contract shall be disbursed by the City to any Contractor unless the Contractor is in compliance with the Federal Agency requirements with regard to accounting and fiscal matters to the extent they are applicable.
- b. Unearned payments under this Contract may be suspended or terminated upon the Contractor's 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.

2. Subcontracting Requirements

- a. The Contractor shall include in any subcontract the clauses set forth in these City of Duluth Supplementary Provisions in their entirety and shall also include 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.

3. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.

Per 2 CFR 200.321, prime contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms (collectively referred to as socioeconomic firms) are used when possible. The affirmative steps must include:

- a. Placing qualified socioeconomic firms on solicitation lists;
- b. Assuring that socioeconomic firms are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by socioeconomic firms;
- d. Establishing delivery schedules, where the requirements permit, which encourage participation by socioeconomic firms; and
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

4. Suspension and Debarment.

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. A contract award must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM.gov), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 19898 Comp., p. 235), "Debarment and Suspension."

SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

NOTICES FOR BIDDERS

BID RIGGING: To report bid rigging activities, call 1-800-424-9071. The U.S. Department of Transportation (DOT) operates this toll-free “hotline” Monday through Friday, 8:00 am to 5:00 pm eastern time. Anyone with knowledge of possible bid rigging, bidder collusion, or other fraudulent activities should use the “hotline” to report such activities.

The “hotline” is part of the DOT’s continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General. All information will be treated confidentially and caller anonymity will be respected.

PROMPT PAYMENT TO SUBCONTRACTORS: The following Minnesota Statutes require prompt payment to subcontractors.

471.425 Prompt payment of local government bills.

Subd. 1. Definitions. For the purposes of this section, the following terms have the meanings here given them.

(d) “Municipality” means any home rule charter or statutory city, county, town, school district, political subdivision or agency of local government. “Municipality” means the metropolitan council or any board or agency created under chapter 473.

Subd. 4a. Prompt payment to subcontractors. Each contract of a municipality must require the prime contractor to pay any subcontractor within ten days of the prime contractor’s receipt of payment from the municipality or undisputed services provided by the subcontractor. The contract must require the prime contractor to pay interest of 1-1/2 percent per month or any part of a month to the subcontractor on any undisputed amount not paid on time to the subcontractor. The minimum monthly interest penalty payment for an unpaid balance of \$100 or more is \$10. For an unpaid balance of less than \$100, the prime contractor shall pay the actual penalty due to the subcontractor. A subcontractor who prevails in a civil action to collect interest penalties from a prime contractor must be awarded its costs and disbursements, including attorney’s fees, incurred in bringing the action. (HIST: 1985 c 136 s5; 1995 c 31 s 1)

ELECTRONIC BIDDING: Your bid will not be accepted if it includes any of the following irregularities:

1. It does not include a proposal guaranty submitted electronically through Bid Express® using Surety 2000 or Tinubu, or as a hard copy by mail or other delivery method, either as a corporate surety bond or a certified check made payable to the City of Duluth. If not submitted electronically, the proposal guaranty must be received by the Purchasing Division, located in City Hall Room 120, 411 West 1st Street, Duluth, MN 55802 NO LATER THAN the specified bid submission deadline. The proposal guaranty must be in a sealed envelope marked clearly with the bid number, name of the bidder, project name and project number;
2. It is not signed by Digital ID by the individual, one or more of the partnership, or one or more officers of a corporation;
3. Any unit price for any pay item is omitted.

Proposals will be considered irregular and may be rejected for any of the following reasons:

1. If any addenda is not acknowledged electronically through Bid Express®;

2. If the bid is a conditional bid (conditional bids are not allowed unless provided for in the Special Provisions);
3. Required documents have not been electronically acknowledged.

All bids must be electronically submitted through Bid Express® or sealed hard copies received in Purchasing by the date and time specified in the invitation to bid. As this list is not all inclusive, bidders are required to review and read the entire proposal package before electronically submitting a bid.

MINNESOTA DEPARTMENT OF TRANSPORTATION
NOTICE TO BIDDERS
SUSPENSIONS/DEBARMENTS

Do not use suspended or debarred parties as subcontractors or material suppliers on this project.

Both the federal government and the State of Minnesota suspend and debar vendors. Review the lists of suspended and debarred vendors when submitting a bid and when submitting a request to sublet.

State Suspensions and Debarments.

To review the list of parties suspended and debarred by the State of Minnesota, go to this website: <http://www.mmd.admin.state.mn.us/debarredreport.asp> . This list includes parties suspended and debarred by the Minnesota Department of Transportation and the Minnesota Department of Administration.

Federal Suspensions and Debarments.

The federal government maintains a website listing suspended and debarred parties. You do not need a username or password to use the search functions on the website. You can either search for specific entity names, or see a list of parties suspended and debarred by the Federal Highway Administration.

To search the status of a particular vendor, follow this process:

First, go to the System for Awards Management (SAM) website: <https://www.sam.gov> (requires Internet Explorer version 11 or higher, or another supported browser such as Chrome).

Next, click on the "Search Records" icon.

Next, enter the potential subcontractor or supplier's name in the "Quick Search" box and click the "search" button.

To view a list of all entities suspended or debarred by the Federal Highway Administration, follow this process:

First, go to the System for Awards Management (SAM) website: <https://www.sam.gov> (requires Internet Explorer version 11 or higher, or another supported browser such as Chrome).

Next, click on the "Search Records" icon.

Next, click on the "Advance Search – Exclusion" tab.

Next, click on the "single search" icon and a search form will pop up.

Next, go to the "Agency" field on the search page and select "Federal Highway Administration" from the drop-down list.

Next, click the "search" button, and the list of suspended and debarred parties will appear.

Do you anticipate hiring additional workers for this project? If so, how many workers do you plan to hire, at what level (apprentice/journey person) and which trade/craft?

Please describe your current process for recruiting and hiring workers, including any partner entities you work with to recruit applicants.

Do you require applicants to have access to their own transportation? **Yes No**

Do you perform a background check on all applicants? **Yes No**

Do you conduct a drug test before an individual may begin work? **Yes No**

Do you offer flexible start times to accommodate working parents? **Yes No**

Please describe your process for certifying which employees are Eligible Workers, and therefore whose work hours will be counted toward the Community Benefits Goal for this project as reported on your monthly reporting form. (**Note:** *You may use existing EEO forms or the City of Duluth Community Benefits Self Attestation form for your workers on this project*)

Please list, in detail, specific actions your company currently takes, or plans to take, to demonstrate your Best Efforts in working toward achieving the Community Benefits Goal for this project (See attached **Examples of Actions to Demonstrate Best Efforts**).

Please provide the name and contact information of the point person for questions related to Community Benefits.

Name: _____

Title: _____

Email: _____

Phone: _____

Submit completed form to CommunityBenefits@DuluthMN.gov



Examples of Actions to Demonstrate Best Efforts

The actions outlined in the Best Efforts Plan are intended to create a lasting partnership between the City and the Contractor to help Eligible Workers develop life-long careers and increase the community's capacity to provide the appropriate workforce for future projects. The Best Efforts Plan can and should include ongoing efforts and those lasting beyond project completion, and may include but shall not be limited to the following commitments by the Contractor:

- Submit all monthly reports to Community Benefits on time. CommunityBenefits@DuluthMN.gov
- Engage Subcontractors as partners in implementation of the Contractor's Best Efforts Plan. Collect and aggregate all subcontractor monthly reports and submit summary report to Community Benefits.
- Participate in local job fairs and hiring events, including those at high schools, and those organized by CareerForce and other partner organizations
- Proactively work with CareerForce, Native American tribes, and community organizations to recruit and retain Eligible Workers
- Notify Community Benefits staff when hiring, particularly when hiring new apprentices
- Proactively work with Duluth Workforce Development and its community partners, as well as local unions, to sponsor new Eligible Workers into apprenticeship programs
- Support and actively participate in apprenticeship preparation programs such as Tools of the Trade, as well as other construction career training opportunities
- Actively participate in the Duluth Workforce Development Board's Construction Working Group, which leads a variety of initiatives to expand our region's construction workforce pipeline
- Review application, hiring, and onboarding process to improve accessibility and remove opportunities for implicit bias
- Develop and implement efforts to retain and support advancement of women, people of color, and disadvantaged workers. For example, develop a mentoring program that pairs new hires with more experienced employees
- Develop and implement company policies and processes to facilitate reporting and resolution of discrimination, harassment, or bias complaints.