REQUEST FOR PROPOSAL
Proctor Transportation Plan

RFP Issued by:
Duluth-Superior Metropolitan Interstate Council (MIC)
a division of
Arrowhead Regional Development Commission (ARDC)

Released: January 9, 2020
Due: Friday, January 31, 2020 – 4:30 p.m.

The Metropolitan Interstate Council (MIC), the Metropolitan Planning Organization (MPO) for the Duluth, MN-Superior, WI urbanized area, is seeking proposals from qualified consulting firms with planning and engineering expertise to develop and produce a multimodal transportation plan for the City of Proctor, Minnesota, including planning-level maps, designs and schematics of high-priority potential improvements on select intersections and streets.

1. Project Objectives.

To define a comprehensive vision for the development of an integrated multimodal transportation system for the City of Proctor and areas adjacent to its jurisdictional borders. The final Plan will:

- Incorporate recommendations and public input received from several recent planning initiatives;
- Enable stakeholders to visualize and prioritize future development directions;
- Facilitate the safe and efficient movement of people of all ages, abilities and incomes, as well as the safe and efficient movement of goods;
- Identify upcoming (programmed) projects;
- Recommend strategic short- and long-term investment strategies to address current and future transportation needs;
- Assist in coordinating transportation investments among multiple roadway authorities and jurisdictions, including MnDOT, St. Louis County, the Duluth Transit Authority, and the Cities of Proctor, Hermantown and Duluth; and
- Position the City and MnDOT to apply for or access available funding.

2. Project Background.

The City of Proctor has for many years been discussing significant transportation issues and projects including 2nd Street, US Highway 2 in downtown Proctor, the I-35/Boundary Avenue interchange, Safe Routes to School, and trail connections to Hermantown and the Munger Trail.

All of these require cooperation among multiple jurisdictions and transportation agencies but have been viewed largely on an individual project level, not from a comprehensive, multimodal, city-wide lens.

MnDOT is now proposing a highway improvement project and requested the MIC to undertake a planning process that consolidates planned and/or programmed projects with community input into a single document that defines a vision for Proctor's transportation system.

Recent related plans conducted for the City of Proctor include:

- *Proctor Comprehensive Plan Story Map (2016 – ARDC)*
- *Proctor Hermantown Munger Trail Spur Master Plan (2016)*
- *Proctor Transportation Report (2015)*
- *Proctor Safe Routes to School Plan (2017)*
- *Proctor Comprehensive Plan"2020 Vision" (2010)*
- *Proctor Master Trail Plan (2007)*
- *Boundary Avenue Corridor Management Plan* (2004)
- *MIC Area Thoroughfare Plan (2001)*

Other related plans include:

- St. Louis County Highway Safety Plan *(2012 – currently being updated)*
- MnDOT District 1 Highway Safety Plan *(2015 – currently being updated)*

3. Project Area/Location.

The project area includes the entire City of Proctor as well as developed areas adjacent to its jurisdictional borders encompassing adjacent state-aid and other federally-eligible roadways and planned trail connections (see Project Area map, Appendix A).

4. Project Timeline.

It is anticipated that a contract will be finalized by Monday, March 2, 2020 for work to commence. All work must be complete by November 30, 2020.

5. Scope of Work/Key Tasks.

The Consultant will:

A. Review past plans and studies and summarize key recommendations and public input that describe a community vision for the City of Proctor.

B. Work with a steering committee throughout the planning process:

The steering committee will include identified participants from the MIC, the City of Proctor, St. Louis County Public Works and MnDOT District 1 as well as a broad range of community stakeholders.

The summary of key recommendations and public input (from task A, above) will be presented as the foundation or starting point for a visioning exercise by the steering committee.

The steering committee will also be engaged to give input on background information and existing conditions and to give feedback on final recommendations.

The number of steering committee meetings will be determined by Consultant in their work plan, with at least the first and the final meetings to take place in person. Consultant will develop meeting agendas, facilitate discussion and provide meeting summaries.

C. Review existing facilities and gather data including:

- Traffic volumes
- Roadway ownership
- Capital Improvement Programs (Proctor, St. Louis County, MnDOT District 1, Duluth Transit Authority)
- Roadway, sidewalk and trail inventory and conditions
- Transit routes and facilities

D. Develop planning-level designs and schematics of the higher-priority potential improvements on select intersections and streets.

E. Develop detailed planning level maps for the entire existing and desired system.

F. Develop an action plan to attain Proctor's multimodal transportation vision that includes goals, strategies and action steps.

G. Identify potential funding sources.

6. Project Deliverables.

Consultant will deliver the following products:

A. A final Plan that presents a holistic and multimodal vision for the City of Proctor's transportation system, including:

- A synthesis of past planning recommendations and community input;
- Planning-level designs and schematics of the higher priority potential improvements on select intersections and streets;
- Detailed planning-level maps for the existing and desired systems;
- A strategy to implement the plan with goals and action steps and a discussion of funding sources;

B. Five (5) printed and bound copies of the final plan.

C. Electronic copies of (a) the final plan and (b) all project files, including any GIS/mapping files that are created for the Plan, for distribution to MnDOT, St. Louis County, the City of Proctor and the MIC.

7. Project Funding and Budget.

The Duluth-Superior Metropolitan Interstate Council, a division of the Arrowhead Regional Development Commission, has included the *Proctor Transportation Plan* as part of its FY 2020 Work Program with a budget of $80,000 for consulting fees and expenses. This amount includes $64,000 in federal Consolidated Planning Grant funds (CFDA 20.205) and $16,000 in combined state (MnDOT) and local matching funds (Arrowhead Regional Development Commission and Northwest Regional Planning Commission). Proposers should consider $80,000 to be the maximum amount available for the tasks and deliverables, as described.

8. Proposal Contents.

Interested parties are asked to submit a succinct proposal that describes the project, the planning process and the firm's qualifications, and a timeline for delivering tasks and deliverables as described in sections 5 and 6. Responders are encouraged to propose additional tasks or activities if they will substantially improve the results of the project, within the stated budget and time parameters listed herein.

The Proposal should be submitted on 8.5"x11" paper in no less than 12 point font, not exceed 12 pages in length. Graphic illustrations may be included on 11"x17" paper and appendices may be attached to the proposal, including resumes and examples of similar work and experience, not counted as part of the 12-page main proposal . All proposal materials should be bound in a single submission. The following will be considered minimum contents of the proposal and must be submitted in the order listed:

1. Responder's company name, business address, primary contact person's name, telephone number and email address.
2. A restatement of the objectives, goals and tasks to demonstrate the Responder's view of the project.
3. A detailed Work Plan identifying the tasks to be accomplished, the budget hours to be expended on each task, and the anticipated work schedule. The Work Plan shall also identify the deliverables at key milestones in the project.

   The Steering Committee intends to be actively involved in the project, and proposed meetings with this group will be key to the Work Plan, with descriptions of themes or topics Consultant will facilitate at each meetings and related tasks and deliverables. Initial meeting will be held in person, subsequent proposed meetings may be held in person and/or by Skype.
4. A description of the Responder's background and experience with similar projects.
5. A list of the personnel who will be assigned to the project, their area of responsibility, their relevant training, work experience and qualifications. No change in personnel assigned to the project will be permitted without the written approval of ARDC/MIC.
6. A budget including the hourly rates and fringe rates for all key personnel who will perform the tasks outlined above and the number of person hours included for each in the Work Plan, as well as the agency's indirect rate, travel expenses, directly related office supplies and administrative costs.
7. Contact information for at least two references, preferably clients for whom the Consultant has performed similar work.
8. Completed forms and certifications required under any other section of this RFP.

9. Proposal Submittal.

Electronic submissions will not be accepted. Proposals are to be submitted in a sealed mailing envelope or package, clearly marked "Proposal: Proctor Transportation Plan" on the outside and mailed or delivered to:

Rondi Watson
Duluth-Superior Metropolitan Interstate Council
221 West First Street, Duluth, MN 55802

All responses must be received no later than 4:30 p.m. Central time on Friday, January 31, 2020. Submit five (5) printed copies of the proposal, as well as a PDF version of the proposal on a USB flash drive. A principal member of the firm must sign each printed copy of the proposal in ink.

10. Proposal Evaluation

A "Best Value Selection" method will be used to review the Proposals and evaluate the demonstrated ability and related experience of Responders. Representatives of MIC, the City of Proctor, St. Louis County and MnDOT District One will evaluate all proposals received by the deadline. The factors and weighting on which proposals will be judged are:

1. Project Work Plan – Expressed project understanding, proposed project approach and methodology, project management techniques including anticipated work schedule, and key milestones for deliverables.	**40 %**
2. Past Performance - Familiarity and experience with similar projects, quality of work, ability to control costs and meet deadlines for those projects, references from other clients.	**15 %**
3. Project Team - Qualifications and related experience of key staff members, availability of personnel and other specialized resources to perform the work within the specified time limit, clearly defined roles and responsibilities relative to specific tasks in the Work Plan.	**15 %**
4. Price and Budget Detail - Budget hours to be expended on each task in the Work Plan; hourly rates and fringe rates for all personnel as well as the agency's indirect rate, and total price.	**30 %**

11. RFP Questions and Clarifications.

Responders are encouraged to promptly notify ARDC/MIC of any apparent major inconsistencies, problems or ambiguities in this RFP. Any questions regarding this RFP must be submitted, by e-mail only, to the RFP Coordinator, Rondi Watson, at rwatson@ardc.org, by 4:30 p.m. Central time on Tuesday, January 14 to be given consideration.

Each question will be posted verbatim on the MIC's Requests for Proposals web page (www.dsmic.org/rfp) without reference to the person or firm that submitted it. Answers and clarifications will be posted on that page by 4:30 pm Central time on Thursday, January 16.

No interpretation of the meaning of the RFP will be made to any Responder verbally. No other project personnel are allowed to discuss the RFP before the proposal submission deadline. Contact regarding this RFP with any personnel not listed above could result in disqualification.

Notices to Prospective Responders
Responders to this RFP will be responsible for checking the MIC's Requests for Proposals web page (www.dsmic.org/rfp) for any posted questions and answers and addendums to this RFP. Failure of any Responder to review any such addendum or interpretation will not relieve such Responder from any obligation under their proposal as submitted. All addenda, if issued, will become part of the agreement documents.

12. Evaluation and Selection Timeline

It is anticipated that the evaluation and selection will be completed according to the following schedule:

January 9, 2020	RFP Posted
January 14, 2020	Deadline for questions from potential Responders regarding this RFP
January 16, 2020	Responses to questions about RFP will be posted online (per Section 11)
January 31, 2020	Deadline for RFP submittals
February 13, 2020	Evaluation and scoring of proposals
February 19, 2020	Notification of apparent successful bidder
March 2, 2020*	Notice to proceed issued / Consultant may begin work

**Contingent on execution of Contract documents and approvals by MnDOT and ARDC Board*

13. Required Federal Contract Clauses

As a sub-recipient receiving FHWA and FTA funds under the Metropolitan Planning Program authorized in 23 USC 104(f) and 49 USC 5305(d).

Responder agrees to comply with the applicable federal requirements as presented in Appendix B, to incorporate these clauses into any resulting contract with ARDC/MIC, and to pass through these requirements to its subcontractors and third party contractors, where applicable.

14. Required Affidavits and Certifications

As part of its Proposal, per Section 8.8, above, Responder will complete and include, as appropriate, the following affidavits and certification forms:

Noncollusion
Responders must complete the Affidavit of Noncollusion attached in Appendix C and include it as part of its proposal.

Organizational Conflicts of Interest
Responders must complete the Conflict of Interest Checklist and Disclosure Form attached in Appendix C and include it as part of its proposal.

Lobbying
For all bids or proposals of third party contracts that exceed $100,000, Responders must complete and sign the Certification Regarding Lobbying attached in Appendix C and submit it as part of its proposal.

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
For all bids or proposals of third party contracts that exceed $25,000, Responders must complete and sign the Certification of Primary Participant Regarding Debarment, Suspension, and Other Responsibility Matters attached in Appendix C and submit it as part of its proposal. .

Affirmative Action
For all Contracts estimated to be in excess of $100,000.00, responders are required to complete the Affirmative Action Certification page attached in Appendix C and include it with the response.

Immigration Status
If any response to a solicitation is or could be in excess of $50,000.00, vendors and subcontractors must certify compliance with items 1 and 2 of the Immigration Status Certification attached in Appendix C and include it with the response.

In addition, prior to the delivery of the product or initiation of services, vendors must obtain this certification from all subcontractors who will participate in the performance of the Contract. All subcontractor certifications must be kept on file with the Contract vendor and made available to the state upon request.

15. Disadvantaged Business Enterprises (DBE) Goal

The MnDOT office of Civil Rights has assigned a Race/Gender Neutral (RGN) Goal to this project.

This contract will be subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. Responders are directed to read the Disadvantaged Business Enterprise (DBE) Special Provisions in Appendix D. The DBE Special Provisions explain how to comply with the DBE requirements. In particular, see pages 1 and 2 of the Special Provisions regarding documents that a Responder must submit with its proposal. The form required in the proposal can be found on page 3 of the Special Provisions.

To view a listing of certified DBE's, please contact the MnDOT Office of Civil Rights at 651-366-3073, TTY 651-282-5799, or visit their website at www.dot.state.mn.us/civilrights/dbe.html

16. ARDC/MIC Contract Requirements

Respondents are directed to review the standard ARDC contract language as presented in Appendix E (ARDC Contract Template A), including all insurance requirements and certifications.

17. General Information

Responders must adhere to all terms of this RFP. Late proposals will not be considered. All costs incurred in responding to this RFP will be borne by the Responder. Fax and e-mail responses will not be considered.

In the event ARDC/MIC believes that additional clarification of a proposal is needed in order to make a determination regarding the proposal, ARDC/MIC shall submit a request for clarification by email to the Responder. The Responder will have two working days to respond via email to provide the additional requested information.

ARDC/MIC and the successful Responder will meet to negotiate the final deliverables and contract. If ARDC/MIC and the successful Responder are unable to agree upon a scope of services and compensation within a reasonable time (as determined by ARDC/MIC at its sole discretion), then ARDC/MIC may declare negotiations to be at an impasse and may commence negotiations with the next highest-ranked Responder.

ARDC/MIC Not Obligated to Complete Project

This RFP does not obligate the Arrowhead Regional Development Commission (ARDC) or the Duluth-Superior Metropolitan Interstate Council (MIC) to award a Contract or complete the project, and ARDC/MIC reserves the right to cancel the solicitation if it is considered to be in its best interest.

Disposition of Responses

All materials submitted in response to this RFP will become property of ARDC/MIC and will become public record after the evaluation process is completed and an award decision made. If the responder submits information in response to this RFP that it believes to be trade secret materials, as defined by the Minnesota Government Data Practices Act, Minnesota Statutes §13.37, the responder must:

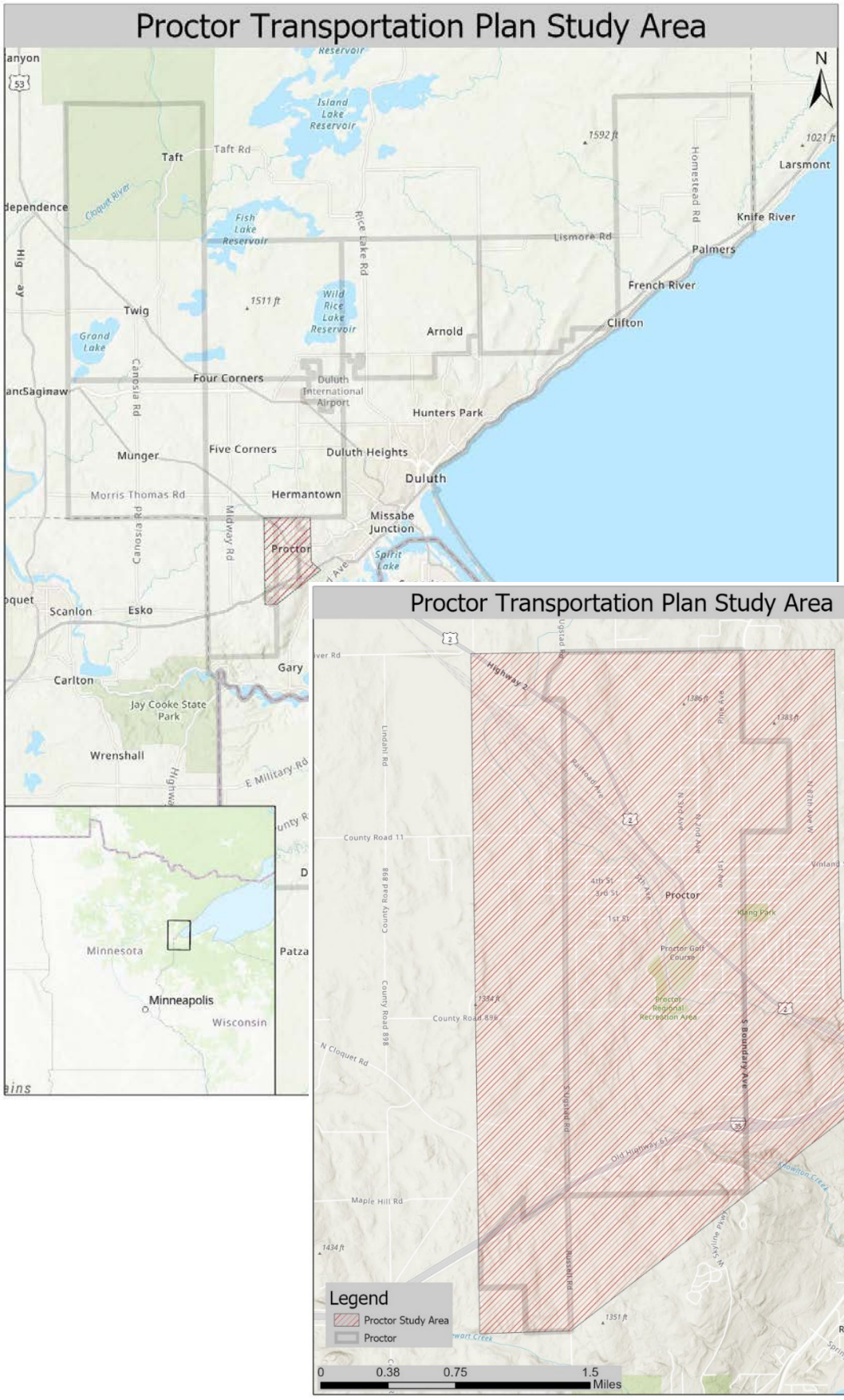
- Clearly mark all trade secret materials in its response at the time the response is submitted,
- Include a statement with its response justifying the trade secret designation for each item, and
- Defend any action seeking release of the materials it believes to be trade secret, and indemnify and hold harmless ARDC/MIC, its agents and employees, from any judgments or damages awarded against the Agency in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the Agency's award of a Contract. In submitting a response to this RFP, the responder agrees that this indemnification survives as long as the trade secret materials are in possession of ARDC/MIC. ARDC/MIC is required to keep all the basic documents related to its Contracts, including responses to RFPs for a minimum of seven years.

ARDC/MIC will not consider the prices submitted by the responder to be proprietary or trade secret materials. Responses to this RFP will not be open for public review until ARDC/MIC decides to pursue a Contract and that Contract is executed.

Contingency Fees Prohibited

Pursuant to Minnesota Statutes §10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

APPENDIX A
Proctor Transportation Plan Study Area Map



APPENDIX B
Required Federal Contract Clauses

The Contractor agrees to comply with the following requirements and agrees to pass through these requirements to its subcontractors and third party contractors, as applicable.

A. ACCESS TO RECORDS AND REPORTS

2 CFR §200.336

Access to Records - The following access to records requirements apply to this Contract: The Contractor will maintain all books, documents, papers, accounting records, and other evidence pertaining to cost incurred in connection with work and services performed under this contract. The Contractor must make such materials available at its office at all reasonable times during the term of this contract, and for six years from the date of final payment under this contract, for inspection by the Arrowhead Regional Development Commission/Duluth-Superior Metropolitan Interstate Council (ARDC/MIC). Copies of such materials will be furnished to ARDC/MIC upon one week notice during the term of this contract and for six years from the date of final payment under this contract.

B. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

No Obligation by the State or Federal Government - (1) ARDC/MIC and Contractor acknowledge and agree that, notwithstanding any concurrence by the State or Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the State or Federal Government, the State or Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to ARDC/MIC, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. (2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with State or Federal assistance provided by FHWA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

C. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

Program Fraud and False or Fraudulent Statements or Related Acts - (1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FHWA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate. (2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FHWA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to the provisions.

All invoices submitted to ARDC/MIC for payment shall include the following certification signed by the Contractor's Project Manager:

> *"I certify to the best of my knowledge the belief that this request for payment is true, complete, and accurate, and the expenditures are for the purposes and objectives set forth in the project contract. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me and my employer to criminal or civil penalties for fraud, false statements, false claims, or otherwise."*

D. CIVIL RIGHTS REQUIREMENTS

29 U.S.C. §623, 42 U.S.C. §2000; 42 U.S.C. §6102, 42 U.S.C. §12112; 42 U.S.C. §12132, 49 U.S.C. §5332; 29 CFR Part 1630, 41 CFR Parts 60 et seq.

Civil Rights - The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the

Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FHWA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) *Race, Color, Creed, National Origin, Sex* - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. 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. In addition, the Contractor agrees to comply with any implementing requirements FHWA may issue.

(b) *Age* - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FHWA may issue.

(c) *Disabilities* - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FHWA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FHWA, modified only if necessary, to identify the affected parties.

E. BREACHES AND DISPUTE RESOLUTION

Disputes - Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of (Recipient)'s [title of employee]. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide be the decision.

Performance During Dispute - Unless otherwise directed by ARDC/MIC, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

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

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question

between ARDC/MIC and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Minnesota.

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

F. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 CFR Part 26

Disadvantaged Business Enterprises

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.* The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. A separate contract goal of **Race Gender Neutral** has been established for this procurement.

- Responders are directed to read the DBE Special Provisions, as posted at http://www.dot.state.mn.us/consult/index.html under the Prof/Tech Notices section and attached as Appendix D. The DBE Special Provisions explains how to comply with the DBE requirements. In particular, see language regarding document(s) that a responder must submit with its proposal. The form required in the proposal can be found on page 3 of Appendix D. To view a listing of certified DBE's, please contact the MnDOT Office of Civil Rights at 651-366-3073, TTY 651-282-5799, or visit their website at http://www.dot.state.mn.us/civilrights.

b. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as ARDC/MIC deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).

c. The Contractor will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The Contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work from ARDC/MIC**.** In addition, [the contractor may not hold retainage from its subcontractors.] [is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.] [is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by ARDC/MIC and contractor's receipt of the partial retainage payment related to the subcontractor's work.]

e. The Contractor must promptly notify ARDC/MIC, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of ARDC/MIC**.**

G. PROCUREMENT OF RECOVERED MATERIALS

2 CFR §200.322

Procurement of Recovered Materials - The following requirements apply to the underlying contract:

ARDC/MIC and the Contractor must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only item designated in guidelines of

the Environmental Protection Agency (EPA) at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the items exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000.

H. DISCLAIMER

Disclaimer – For contracts funded with federal funds, all final documents produced under this contract shall include the following statement on the title page:

> *"The preparation of this report has been funded in part by the U.S. Department of Transportation, Federal Highway Administration, and Federal Transit Administration. The contents of this document reflect the views of the authors who are responsible for the facts or accuracy of the data presented therein. The contents do not necessarily reflect the official views or policies of the U.S. Department of Transportation. This report does not constitute a standard, specification, or regulation."*

For contracts funded with federal and state funds, all final documents produced under this contract shall include the following statement on the title page:

> *"The preparation of this report has been funded in part by the U.S. Department of Transportation, Federal Highway Administration, and Federal Transit Administration, and the Minnesota Department of Transportation. The contents of this document reflect the views of the authors who are responsible for the facts or accuracy of the data presented therein. The contents do not necessarily reflect the official views or policies of the U.S. Department of Transportation or the Minnesota Department of Transportation. This report does not constitute a standard, specification, or regulation."*

I. TERMINATION FOR CAUSE AND FOR CONVENIENCE

2 CFR Part 200, Appendix II(B)

Termination of Agreement - Either the Contractor or ARDC/MIC may, by giving written notice specifying the effective date which shall not be less than thirty (30) days from the date such notice is given, terminate this Agreement in whole or in part. In the event of termination, all property and finished or unfinished documents and other writing prepared by the Contractor under this Agreement shall be delivered to ARDC/MIC and Contractor shall be entitled to compensation for time expended and expenses incurred to the date of termination.

J. CHANGES

Changes – Contractor shall at all times comply with all applicable State and Federal regulations, policies, procedures and directives. Contractor's failure to so comply shall constitute a material breach of this contract.

K. LOBBYING

Lobbying – Contracts for more than $100,000 must require the contractor and any subcontractor(s) to file a lobbying certification. The funding threshold is based on the total contract award (i.e., prime and any subs).

L. REMEDIES

2 CFR Part 200, Appendix II(A)

Remedies - Contracts for more than $150,000 must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

M. CLEAN AIR AND CLEAN WATER

42 U.S.C. 7401 – 7671q.; 33 U.S.C. 1251-1387

Clean Air Act and Federal Water Pollution Control Act - Contracts for more than $150,000 must contain a provision that requires the Contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean

Air Act and the Federal Water Pollution Control Act as amended. Violations must be reported to the FHWA and the Regional Office of the Environmental Protection Agency (EPA).

OTHER REQUIRED CONTRACT CLAUSES

The Contractor agrees to comply with the following additional requirements:

N. CONDITIONS OF PAYMENT

All services provided by the Contractor under this contract must be performed to the satisfaction of ARDC/MIC and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Consultant will not receive payment for work found by ARDC/MIC to be unsatisfactory or performed in violation of federal, state, or local law.

O. ASSURANCES – NON-CONSTRUCTION PROGRAMS

Contractor certifies that it complies with all the applicable clauses identified in SF-424B, Assurances – Non-Construction Programs, as provided at https://www.grants.gov/forms/sf-424-family.html

APPENDIX C
Required Affidavits and Certifications

DESCRIPTION OF REQUIRED FORMS

Affidavit of Noncollusion

Responders must complete the "Affidavit of Noncollusion" found in this Appendix and include it with the response. The successful responder will be required to submit acceptable evidence of compliance with workers' compensation insurance coverage requirements prior to execution of the Contract. The successful responder will be required to submit pre-award audit information and comply with audit standards.

Organizational Conflicts of Interest

The responder warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances, which could give rise to organizational conflicts of interest. An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons, a vendor is unable or potentially unable to render impartial assistance or advice to the Arrowhead Regional Development Commission/Duluth-Superior Metropolitan Interstate Council (ARDC/MIC), or the successful responder's objectivity in performing the Contract work is or might be otherwise impaired, or the successful responder has an unfair competitive advantage. The responder agrees that, if after award, an organizational conflict of interest is discovered, an immediate and full disclosure in writing must be made to ARDC/MIC, which must include a description of the action, which the successful responder has taken or proposes to take to avoid or mitigate such conflicts.

If an organization conflict of interest is determined to exist, ARDC/MIC may, at their discretion, cancel the Contract. In the event the responder was aware of an organizational conflict of interest prior to the award of the Contract and did not disclose the conflict to the contracting officer, ARDC/MIC may terminate the Contract for default. The provisions of this clause must be included in all subcontracts for work to be performed similar to the service provided by the prime contractor, and the terms "contract," "contractor," and "contracting officer" modified appropriately to preserve ARDC/MIC's rights. Responders must complete the "Conflict of Interest Checklist and Disclosure Form" and submit it along with the response, but not as a part of the response.

Affirmative Action Data

For all Contracts estimated to be in excess of $100,000, responders are required to complete the "Affirmative Action Certification" page and include it with the response.

Immigration Status Certification

By order of the Governor (Governor's Executive Order 08-01), vendors and subcontractors MUST certify compliance with the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 et seq.) and certify use of the *E-Verify* system established by the Department of Homeland Security. *E-Verify* program information can be found at http://www.dhs.gov/ximgtn/programs.

If any response to a solicitation is or could be in excess of $50,000, vendors and subcontractors must certify compliance with items 1 and 2 of the Immigration Status Certification by completing the required form and submitting it with their proposal.

In addition, prior to the delivery of the product or initiation of services, vendors must obtain this certification from all subcontractors who will participate in the performance of the contract. All subcontractor certifications must be kept on file with the contract vendor and made available to the state upon request.

Restrictions on Lobbying

Contractors that apply or bid for an award of $100,000 or more must completed the required certification that is will not and has not used Federally appropriated funds to pay any person or organization for influencing an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in

connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 1352. The Contractor must disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. The offeror must submit the required form with their proposal.

Pursuant to Minnesota Statutes §10A.06, no person may act as or employ a lobbyist for compensation that is dependent upon the result or outcome of any legislation or administrative action.

Standard of Performance, Insurance and Indemnity

All services to be performed by Contractor hereunder shall be performed in a skilled, professional and non-negligent manner. Contractor shall obtain and maintain at his/her/its cost and expense:

a. **Comprehensive general liability insurance** that covers the consultant services performed by Contractor for ARDC/MIC with a combined single limit of liability of at least Two Million Dollars ($2,000,000.00).

b. **Errors and omissions or equivalent insurance** that covers the contractor services performed by Contractor for ARDC/MIC with a combined single limit of liability of at least Two Million Dollars ($2,000,000.00).

c. **Worker's compensation insurance** covering Contractor (if an individual) and all of Contractor's employees with coverages and limits of coverage required by law.

Contractor shall indemnify and hold harmless ARDC/MIC from and against all errors, omissions and/or negligent acts causing claims, damages, liabilities and damages arising out of the performance of his/her/its services hereunder.

Contractor certifies that Contractor is in compliance with all applicable worker's compensation laws, rules and regulations. Neither Contractor (if an individual) nor Contractor's employees and agents will be considered ARDC/MIC employees. Any claims that may arise under any worker's compensation laws on behalf of any employee of Contractor and any claims made by any third party as a consequence of any act or omission on the part of Contractor or any employee of Contractor are in no way ARDC/MIC's obligation or responsibility. By signing this Agreement, Contractor certifies that Contractor is in compliance with these laws and regulations.

Contractor shall deliver to ARDC/MIC, concurrent with the execution of this Agreement, one or more certificate(s) of insurance evidencing that Consultant has the insurance required by this Agreement in full force and effect. The Arrowhead Regional Development Commission/Duluth-Superior Metropolitan Interstate Council (ARDC/MIC)shall be named as additional insureds under such policy(ies). The insurer will provide at least thirty (30) days prior written notice to ARDC/MIC, without fail, of any cancellation, non-renewal, or modification of any the policy(ies) or coverage evidenced by said certificate(s) for any cause, except for nonpayment of premium. The insurer will provide at least ten (10) days prior written notice to ARDC/MIC, without fail, of any cancellation of any of the policy(ies) or coverage evidenced by said certificate(s) for nonpayment of premium. Contractor shall provide ARDC/MIC with appropriate endorsements to its policy(ies) reflecting the status of ARDC/MIC as an additional insured and requiring that the foregoing required notice of cancellation, material alteration or non-renewal be provided ARDC/MIC by the insurance company providing such insurance policy to Contractor.

The Contractor shall require any subcontractor permitted by ARDC/MIC under Section 3 hereof to perform work for Contractor on the Project to have in full force and effect the insurance coverage required of the Contractor under this Agreement before any subcontractor(s) begin(s) work on the Project. Contractor shall require any such subcontractor to provide to Contractor a Certificate of Insurance evidencing that such subcontractor has the insurance required by this Agreement in full force and effect. The Contractor and ARDC/MIC shall be named as additional insureds under such policies. The insurer will provide 30 day written notice to ARDC/MIC and Contractor, without fail, of any cancellation, non-renewal, or modification of the policy(ies) or coverage evidenced by said certificate(s) for any cause, except for nonpayment of premium. The insurer will provide at least ten (10) days prior written notice to ARDC/MIC, without fail, of any cancellation of any of the policy(ies) or coverage evidenced by said certificate(s) for nonpayment of premium. ARDC/MIC shall also be provided with appropriate endorsements to its policy(ies) reflecting the status of ARDC/MIC as an additional insured and requiring that the foregoing required notice of cancellation, material alteration or non-renewal be provided ARDC/MIC by the insurance company providing such insurance policy(ies).

AFFIDAVIT OF NONCOLLUSION

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

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

That the attached proposal submitted in response to the _____Request for Proposals has been arrived at by the Responder independently and has been submitted without collusion with and without any agreement, understanding or planned common course of action with, any other Responder of materials, supplies, equipment or services described in the Request for Proposal, designed to limit fair and open competition;

That the contents of the proposal have not been communicated by the Responder or its employees or agents to any person not an employee or agent of the Responder and will not be communicated to any such persons prior to the official opening of the proposals; and

That I am fully informed regarding the accuracy of the statements made in this affidavit.

Responder's Firm Name:_____

Authorized Signature: _____

Date: _____

Subscribed and sworn to me this: _____ day of_____

Notary Public: _____

My commission expires: _____

CONFLICT OF INTEREST CHECKLIST AND DISCLOSURE FORM

Purpose of this Checklist. This checklist is provided to assist proposers in screening for potential organizational conflicts of interest. The checklist is for the internal use of proposers and does not need to be submitted, however, the Disclosure of Potential Conflict of Interest form should be submitted in a separate envelope along with your proposal.

Definition of "Proposer". As used herein, the word "Proposer" includes both the prime contractor and all proposed subcontractors.

Checklist is Not Exclusive. Please note that this checklist serves as a guide only, and that there may be additional potential conflict situations not covered by this checklist. If a proposer determines a potential conflict of interest exists that is not covered by this checklist, that potential conflict must still be disclosed.

Use of the Disclosure Form. A proposer must complete the attached disclosure form and submit it with their Proposal. If a proposer determines a potential conflict of interest exists, it must disclose the potential conflict to the Arrowhead Regional Development Commission/Duluth-Superior Metropolitan Interstate Council (ARDC/MIC); however, such a disclosure will not necessarily disqualify a proposer from being awarded a Contract. To avoid any unfair "taint" of the selection process, the disclosure form should be provided separate from the bound proposal, and it will not be provided to selection committee members. ARDC/MIC personnel will review the disclosure and the appropriateness of the proposed mitigation measures to determine if the proposer may be awarded the contract notwithstanding the potential conflict. By statute, resolution of conflict of interest issues is ultimately at the sole discretion of ARDC/MIC.

Material Representation. The proposer is required to submit the attached disclosure form either declaring, to the best of its knowledge and belief, either that no potential conflict exists, or identifying potential conflicts and proposing remedial measures to ameliorate such conflict. The proposer must also update conflict information if such information changes after the submission of the proposal. Information provided on the form will constitute a material representation as to the award of this Contract. ARDC/MIC reserve the right to cancel or amend the resulting contract if the successful proposer failed to disclose a potential conflict, which it knew or should have known about, or if the proposer provided information on the disclosure form that is materially false or misleading.

Approach to Reviewing Potential Conflicts. ARDC/MIC recognizes that proposers must maintain business relations with other public and private sector entities in order to continue as viable businesses. ARDC/MIC will take this reality into account as it evaluates the appropriateness of proposed measures to mitigate potential conflicts. It is not ARDC/MIC's intent to disqualify proposers based merely on the existence of a business relationship with another entity, but rather only when such relationship causes a conflict that potentially impairs the proposer's ability to provide objective advice to ARDC/MIC. ARDC/MIC would seek to disqualify proposers only in those cases where a potential conflict cannot be adequately mitigated. Nevertheless, ARDC/MIC must follow statutory guidance on Organizational Conflicts of Interest.

Statutory Guidance. Minnesota Statutes §16C.02, subd. 10 (a) places limits on state agencies ability to contract with entities having an "Organizational Conflict of Interest". For purposes of this checklist and disclosure requirement, the term "Vendor" includes "Proposer" as defined above. Pursuant to such statute, "Organizational Conflict of Interest" means that because of existing or planned activities or because of relationships with other persons: (1) the vendor is unable or potentially unable to render impartial assistance or advice to the state; (2) the vendor's objectivity in performing the contract work is or might otherwise be impaired; or (3) the vendor has an unfair advantage.

Additional Guidance for Professionals Licensed by the Minnesota Board of Engineering. The Minnesota Board of Engineering has established conflict of interest rules applicable to those professionals licensed by the Board (see Minnesota Rules part 1805.0300) Subpart 1 of the rule provides "A licensee shall avoid accepting a commission where duty to the client or the public would conflict with the personal interest of the licensee or the interest of another client. Prior to accepting such employment, the licensee shall disclose to a prospective client such facts as may give rise to a conflict of interest".

An organizational conflict of interest may exist in any of the following cases:

- ❑ The proposer, or its principals, own real property in a location where there may be a positive or adverse impact on the value of such property based on the recommendations, designs, appraisals, or other deliverables required by

this Contract.

- ❑ The proposer is providing services to another governmental or private entity and the proposer knows or has reason to believe, that entity's interests are, or may be, adverse to the state's interests with respect to the specific project covered by this contract. **Comment:** the mere existence of a business relationship with another entity would not ordinarily need to be disclosed. Rather, this focuses on the nature of services commissioned by the other entity. For example, it would not be appropriate to propose on an ARDC/MIC project if a local government has also retained the proposer for the purpose of persuading ARDC/MIC to stop or alter the project plans.

- ❑ The Contract is for right-of-way acquisition services or related services (e.g. geotechnical exploration) and the proposer has an existing business relationship with a governmental or private entity that owns property to be acquired pursuant to the Contract.

- ❑ The proposer is providing real estate or design services to a private entity, including but not limited to developers, whom the proposer knows or has good reason to believe, own or are planning to purchase property affected by the project covered by this Contract, when the value or potential uses of such property may be affected by the proposer's performance of work pursuant to this Contract. "Property affected by the project" includes property that is in, adjacent to, or in reasonable proximity to current or potential right-of-way for the project. The value or potential uses of the private entity's property may be affected by the proposer's work pursuant to the Contract when such work involves providing recommendations for right-of-way acquisition, access control, and the design or location of frontage roads and interchanges. **Comment**: this provision does not presume proposers know or have a duty to inquire as to all of the business objectives of their clients. Rather, it seeks the disclosure of information regarding cases where the proposer has reason to believe that its performance of work under this contract may materially affect the value or viability of a project it is performing for the other entity.

- ❑ The proposer has a business arrangement with a current ARDC/MIC employee or immediate family member of such employee, including promised future employment of such person, or a subcontracting arrangement with such person, when such arrangement is contingent on the proposer being awarded this Contract. This item does not apply to pre-existing employment of current or former ARDC/MIC employees, or their immediate family members. Comment: this provision is not intended to supersede any ARDC/MIC policies applicable to its own employees accepting outside employment. This provision is intended to focus on identifying situations where promises of employment have been made contingent on the outcome of this particular procurement. It is intended to avoid a situation where a proposer may have unfair access to "inside" information.

- ❑ The proposer has, in previous work for the state, been given access to "data" relevant to this procurement or this project that is classified as "private" or "nonpublic" under the Minnesota Government Data Practices Act, and such data potentially provides the proposer with an unfair advantage in preparing a proposal for this project.

  Comment: this provision will not, for example, necessarily disqualify a proposer who performed some preliminary work from obtaining a final design Contract, especially when the results of such previous work are public data available to all other proposers. Rather, it attempts to avoid an "unfair advantage" when such information cannot be provided to other potential proposers. Definitions of "government data", "public data", "non-public data" and "private data" can be found in Minnesota Statutes Chapter 13.

- ❑ The proposer has, in previous work for the state, helped create the "ground rules" for this solicitation by performing work such as: writing this solicitation, or preparing evaluation criteria or evaluation guides for this solicitation.

- ❑ The proposer, or any of its principals, because of any current or planned business arrangement, investment interest, or ownership interest in any other business, may be unable to provide objective advice to the state.

DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST

Having had the opportunity to review the Organizational Conflict of Interest Checklist, the proposer hereby indicates that it has, to the best of its knowledge and belief:

_____ Determined that no potential organizational conflict of interest exists.

_____ Determined a potential organizational conflict of interest as follows:

Describe nature of potential conflict:

Describe measures proposed to mitigate the potential conflict:

_____ _____

Signature Date

If a potential conflict has been identified, please provide name and phone number for a contact person authorized to discuss this disclosure form with the Arrowhead Regional Development Commission/Duluth-Superior Metropolitan Interstate Council (ARDC/MIC) personnel.

_____ _____

Name Phone

AFFIRMATIVE ACTION CERTIFICATION

If your response to this solicitation is or could be in excess of $100,000.00, complete the information requested below to determine whether you are subject to the Minnesota Human Rights Act (Minnesota Statutes 363A.36) certification requirement, and to provide documentation of compliance if necessary. It is your sole responsibility to provide this information and—if required—to apply for Human Rights certification prior to the due date and time of the bid or proposal and to obtain Human Rights certification prior to the execution of the contract. The State of Minnesota is under no obligation to delay proceeding with a contract until a company receives Human Rights certification.

BOX A – For companies which have employed more than 40 full-time employees within Minnesota on any single working day during the previous 12 months. All other companies proceed to BOX B.

Your response will be rejected unless your business:

- Have a current Certificate of Compliance issued by the Minnesota Department of Human Rights (MDHR), or
- Has submitted an affirmative action plan to MDHR, which the Department received prior to the date and time the responses are due.

Check one of the following statements if you have employed more than 40 full-time employees in Minnesota on any single working day during the previous 12 months:

- ❑ We have a current Certificate of Compliance issued by MDHR. Proceed to BOX C. Include a copy of your Certificate with your response.
- ❑ We do not have a current Certificate of Compliance. However, we submitted an Affirmative Action Plan to MDHR for approval, which the Department received on _____ (date). If the date is the same as the response due date, indicate the time your plan was received: _____ (time). Proceed to BOX C.
- ❑ We do not have a Certificate of Compliance, nor has MDHR received an Affirmative Action Plan from our company. We acknowledge that our response will be rejected. Proceed to BOX C. Contact MDHR for assistance. (See below for contact information.)

Please note: Certificates of Compliance must be issued by MDHR. Affirmative Action Plans approved by the Federal government, a county, or a municipality must still be received, reviewed, and approved by MDHR before a certificate can be issued.

BOX B – For those companies not described in BOX A.

Check below.

- ❑ We have not employed more than 40 full-time employees on any single working day in Minnesota within the previous 12 months. Proceed to BOX C.

BOX C – For all companies

By signing this statement, you certify that the information provided is accurate and that you are authorized to sign on behalf of the responder. You also certify that you are in compliance with federal affirmative action requirements that may apply to your company. (These requirements are generally triggered only by participating as a prime or subcontractor on federal projects or contracts. Contractors are alerted to these requirements by the federal government.

Name of Company: _____ Date: _____

Authorized Signature: _____ Telephone Number: _____

Printed Name: _____ Title: _____

For assistance with this form, contact: Minnesota Department of Human Rights, Compliance Services Section

Mail: 190 East 5th St, Suite 700 St. Paul, MN 55101
TC Metro: (651) 296-5663
Toll free: 800-657-3704
Web: www.humanrights.state.mn.us
Fax: (651) 296-9042
TTY: (651) 296-1283
Email: employerinfo@therightsplace.net

IMMIGRATION STATUS CERTIFICATION

By order of the Governor (Governor's Executive Order 08-01), vendors and subcontractors MUST certify compliance with the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 et seq.) and certify use of the *E-Verify* system established by the Department of Homeland Security.

E-Verify program information can be found at http://www.dhs.gov/ximgtn/programs.

If any response to a solicitation is or could be in excess of $50,000.00, vendors and subcontractors must certify compliance with items 1 and 2 below. In addition, prior to the delivery of the product or initiation of services, vendors MUST obtain this certification from all subcontractors who will participate in the performance of the Contract. All subcontractor certifications must be kept on file with the Contract vendor and made available to the state upon request.

1. The company shown below is in compliance with the Immigration Reform and Control Act of 1986 in relation to all employees performing work in the United States and does not knowingly employ persons in violation of the United States immigration laws. The company shown below will obtain this certification from all subcontractors who will participate in the performance of this Contract and maintain subcontractor certifications for inspection by the state if such inspection is requested; and
2. By the date of the delivery of the product and/or performance of services, the company shown below will have implemented or will be in the process of implementing the *E-Verify* program for all newly hired employees in the United States who will perform work on behalf of the State of Minnesota.

I certify that the company shown below is in compliance with items 1 and 2 above and that I am authorized to sign on its behalf.

Name of Company: _____ Date: _____

Authorized Signature: _____ Telephone No: _____

Printed Name: _____ Title: _____

If the Contract vendor and/or the subcontractors are not in compliance with the Immigration Reform and Control Act, or knowingly employ persons in violation of the United States immigration laws, or have not begun or implemented the *E-Verify* program for all newly hired employees in support of the Contract, the state reserves the right to determine what action it may take. This action could include, but would not be limited to cancellation of the Contract, and/or suspending or debarring the Contract vendor from state purchasing.

For assistance with the *E-Verify* Program

Contact the National Customer Service Center (NCSC) at **1-800-375-5283** (TTY 1-800-767-1833).

For assistance with this form, contact:

Mail: 112 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155

E-Mail: MMDHelp.Line@state.mn.us

Telephone: 651-296-2600

Persons with a hearing or speech disability may contact us by dialing 711 or 1-800-627-3529

CERTIFICATION OF RESTRICTION ON LOBBYING

In accordance with Section 1352 of Title 31, United States Code, it is the policy of the bidder/company named below that:

1. No Federal or state appropriated funds have been paid or will be paid by or on behalf of the bidder/company, to any person for influencing or attempting to influence an officer or employee of any Federal or state agency, or a member of Congress or the state legislature in connection with the awarding of any Federal or state contract, the making of any Federal or state grant, the making of any Federal or state loan, extension, continuation, renewal, amendment, or modification of any Federal or state contract, grant, loan, or cooperative agreement.

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

3. The bidder/company shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants and contracts and subcontracts under grants, subgrants, loans, and cooperative agreement), which exceeds $100,000, and that all such subrecipients shall certify and disclose accordingly.

4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each failure.

Name of Bidder / Company Name _____

Type or print name _____

Signature of authorized representative _____ Date ___ / ___ / ___

_____ (Title of authorized official)

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
INSURED	INSURER A :	
	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	DED RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						☐ PER STATUTE ☐ OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ N / A						E.L. EACH ACCIDENT	$
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER	CANCELLATION
	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

© 1988-2016 ACORD CORPORATION. All rights reserved.

ACORD 25 (2016/03) The ACORD name and logo are registered marks of ACORD

APPENDIX D
Disadvantaged Business Enterprise (DBE) Special Provisions

RACE/GENDER NEUTRAL GOAL

The DBE Special Provisions explain how to comply with the DBE requirements for projects that the MnDOT Office of Civil Rights/Contract Management has assigned a Race/Gender Neutral DBE goal.

POLICY STATEMENT

It is the policy of the Minnesota Department of Transportation (MnDOT) that DBEs, as defined in 49 C.F.R. Part 26 and other small businesses shall have the maximum feasible opportunity to participate in contracts financed in whole or in parts with federal funds. Consistent with this policy and Title VI of 1964 Civil Rights Act, Mn/DOT will not allow any person or business to be excluded from participation in, denied the benefits of, or otherwise be discriminated against in connection with the award and performance of any U.S. Department of Transportation (DOT) assisted contract because of sex, race, color, or national origin. MnDOT has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the DOT, 49 C.F.R. Part 26 to implement this policy.

CONTRACT ASSURANCE

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

Furthermore, Title VI of the Civil Rights Act of 1964 assures that no person or group of persons may, on the grounds of race, color, national origin, sex, age, handicap or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any and all programs or activities administered by MnDOT. For further information regarding Title VI, please contact the Office of Civil Rights, 395 John Ireland Blvd., MS 170, St. Paul, MN 55155-1899. Our telephone number is: (651) 366-3073.

The above information is applicable to every contractor including every tier of subcontractors, supplier or service providers on this project. It is the responsibility of the prime contractor, subcontractors, suppliers and service providers to ensure equal opportunity for all firms to participate on this project.

RACE/GENDER NEUTRAL GOAL

There is **no specific numerical DBE goal assigned to this project**. While no numeric DBE goal is assigned to this contract, the Contractor, sub-recipient or subcontractor **should make every reasonable effort to solicit DBE firms to participate** as subcontractors, service providers and suppliers on this project.

ADDITIONAL SUBCONTRACTORS, SUPPLIERS AND SERVICE PROVIDERS

Whenever an additional subcontractor, supplier or service provider is selected, and this information has not been previously reported to the MnDOT Office of Civil Rights, the Contractor or its designated DBE Officer shall promptly provide MnDOT OCR with the following information regarding the subcontract:

- The name of the subcontractor; supplier or service provider;
- The total dollar amount of the subcontract;
- The specific work items covered by the subcontract;
- Estimated quantities of each work item; and
- Individual unit prices (if applicable).

SUBMITTAL OF DOCUMENTATION

Upon award of the contract, the Contractor shall submit on the attached Bidders List, a complete list of all subcontractors, service providers, suppliers and consultants that submitted bids, and shall indicate the successful quotes that will be used on the contract.

Additionally, during the life of the contract, the Contractor shall submit progress payment reports on the attached Contractor Payment Form regarding the payments made to its subcontractors, suppliers, service providers and sub-consultants. In accordance with federal regulations and Minnesota's Prompt Payment law, Contractors are required to pay their subcontractors within ten (10) days of receiving progress payments from MnDOT. Contractors are also required to submit to the Project Engineer and the MnDOT OCR the Contractor Payment Forms no later than ten (10) days after receiving payment from MnDOT.

PROMPT PAYMENT

Minnesota Statutes §16A.1245 requires that the prime contractor agrees to pay each subcontractor within ten (10) days of the prime contractor's receipt of payment from the state for undisputed services provided by the subcontractor. The prime contractor is subject to pay interest charges of 1-1/2 percent per month, or any part of a month, to the subcontractor on any undisputed amount not paid to the subcontractor within the ten (10) day period. This provision applies to DBE and non-DBE subcontractors.

Prime contractors are required to make prompt and full payment of any retainage kept by the prime contractor to the subcontractor within 10 days after the subcontractor's work is satisfactorily completed. Satisfactorily completed means when all the tasks called for in the subcontract have been accomplished and documented as required by MnDOT. When MnDOT has made incremental acceptances of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed. (49 C.F.R. § 26.29(b)-(c)).

Failure to comply with these payment provisions may result in penalties including the withholding of progress payments to prime contractors. Appropriate penalties will be determined by MnDOT. At the conclusion of the contract, the bidder must present the DBE Total Payment Affidavit to the MnDOT Office of Civil Rights. The affidavit must show the total dollar amount of work performed by each DBE business. Submission of this information is a condition of payment.

Bidders who submit a proposal are hereby notified that the Federal False Claims Act (31 USC 3729- 3733) and State False Claims Act (Minn. Stat. §15C.02) apply to statements and certifications made in connection with the DBE program.

This Race/Gender Neutral Goal Language is an addendum to the MnDOT DBE Special Provisions.

Minnesota Department of Transportation
Office of Civil Rights

Bidders List

State Project Number _____ Date: _____
Project Name _____ Eng. Est. Goal %
Contact Name _____ Contact # _____

List all comparative quotes or proposals received from Prime Contractors bidding or proposing on the project above.

	Contractor Information		Check (√) Firms That Will Be Used	Description of Work	Dollar Amount Of Bid/Proposal.
1.	Contractor Name **Contact Name** Address Federal Tax # / E-mail Phone / Fax:		☐		
2.	Contractor Name **Contact Name** Address Federal Tax # / E-mail Phone / Fax		☐		
3.	Contractor Name **Contact Name** Address Federal Tax # / E-mail Phone / Fax		☐		
4.	Contractor Name Contact Name Address: Federal Tax # / E-mail Phone / Fax		☐		
5.	Contractor Name Contact Name Address: Federal Tax # / E-mail Phone / Fax		☐		

Minnesota Department of Transportation
Office of Civil Rights

Contractor Payment Form

State Project Number **Prime Contractor:** _____ **1st Tier Sub-Contractor:** _____

Payment Reporting Period: From:_____ To: _____

Instructions: All Contractors making payments to Contractors/Subcontractors/Suppliers/Service Providers, regardless of their tier or DBE status, are required to complete and submit this form to the MnDOT Office of Civil Rights (OCR), each time payments are made to sub-contractors until final payment is made. Failure to comply with this form and Minnesota's prompt payment law may cause progress payments to be withheld. Submit one copy of this form to the Mn/DOT OCR and one copy to the Project Engineer, no later than ten (10) days after receiving payment from MnDOT.

Contractor Information		**Original Contract Amount**	**Committed DBE %**	**Actual DBE % to Date**
Name:				
Address:				
Phone:				

Name of Subcontractor/Supplier	**DBE? (Check if Yes)**	**Description of Work**	**Subcontract Amount**
1.	☐	1.	1.
2.	☐	2.	2.
3.	☐	3.	3.
4.	☐	4.	4.
5.	☐	5.	5.
6.	☐	6.	6.

Amount of Current Payment	**Total Sub-Contractor Payment-To-Date**	**% Paid to date**	**Final Payment? Yes/No**
1.	1.	1.	1.
2.	2.	2.	2.
3.	3.	3.	3.
4.	4.	4.	4.
5.	5.	5.	5.
6.	6.	6.	6.

Company Officials Signature & Title	**Date Signed**	**Name & Title of Individual Completing Report (Type or Print Clearly)**	
Title:		Title:	
Phone:	Fax:	Phone:	Fax:

Minnesota Department of Transportation
Office of Civil Rights

Contractor Payment Form Instructions

All Contractors making payments to Contractors/Subcontractors/Suppliers/Service Providers, regardless of their tier or DBE status, are required to complete and submit this form to the Mn/DOT Office of Civil Rights (OCR), each time payments are made to sub-contractors until final payment is made. Failure to comply with this form and Minnesota's prompt payment law may cause progress payments to be withheld. Submit one copy of this form to the MnDOT OCR and one copy to the Project Engineer, no later than ten (10) days after receiving payment from MnDOT.

State Project Number: As identified by MnDOT

Prime Contractor: The contractor who was awarded the project.

1st Tier Sub-Contractor: If there is an instance of a sub who has a subcontractor, list the 1st tier sub here and then list all of the 2nd tier Subcontractor(s) in the Name of Subcontractor/Supplier area. *All areas should be filled in regarding the prime as well.*

Payment Reporting Period: This should reflect the current payment period.

Contractor Information: Contractor's information who is making the payments. Should be filled out completely.

Original Contract Amount: Prime contractor's contract dollar amount.

Committed DBE%: The DBE requirement as certified by the prime in the proposal that is the minimum percentage to be met.

Actual DBE % to Date: The percent met to date.

Name of Subcontractor/Supplier: Company who is working for the prime contractor on this project. (If a sub was contracted for more than one contract, list each contract separately.)

DBE?: Check this box if the subcontractor is a certified DBE in Minnesota. You can find a listing of the DBE firms certified in Minnesota at www.dot.state.mn.us/civilrights/dbedirectory.html.

Description of Work: The type of work the subcontractor was contracted for.

Subcontract Amount: The dollar amount the subcontractor was contracted for.

Amount of Current Payment: The current dollar amount being paid to the sub.

Total Sub-Contractor Payment-to-Date: Total dollar amount paid to the sub including the current payment.

% Paid to Date: Percentage of total payments made in comparison to the prime's award amount.

Final Payment?: Indicate weather this is the final payment being made to the sub.

Company Officials Signature & Title: Self explanatory

Name & Title of Individual Completing Report: Self explanatory

If you have questions on completing the form, call the Office of Civil Rights at (651) 366-3073.

Minnesota Department of Transportation
Office of Civil Rights

DBE Total Payment Affidavit

Pursuant to MnDOT Standard Specifications for Construction, Section 1908, the following DBE Total Payment Affidavit shall be executed by the Prime Contractor after all work has been performed by a DBE on this project. If the dollar value of the DBE firm's total work is less than the DBE's original subcontract, please explain. Attach additional sheets if necessary.

State Project Number: _____

STATE OF MINNESOTA
COUNTY OF _____

I, _____, being first duly sworn, do depose and say that:

1. I am the authorized representative of _____
(Name of Individual, Company, Partnership or Corporation)

and I have the authority to make this Affidavit for and on behalf of said Prime Contractor.

2. The following DBE Subcontractors/Suppliers/Service Providers/Sub-Consultants have performed work on this contract/project with a total dollar value of:

	Name of DBE Firm	Dollar Amount of Subcontract	Total Dollar Amount
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

3. I have fully informed myself regarding the accuracy of the statements made in this Affidavit.

Signed:

_____
(Prime Contractor or Authorized Representative)

Subscribed and sworn to before me

This_____day of_____, 20_____

_____
(Notary Public)

My commission expires_____, 20_____

Prepare Affidavit in duplicate. Submit one original to the Project Engineer, and one original to:
MnDOT's Office of Civil Rights
395 John Ireland Blvd., MS 170
St. Paul, MN 55155

No. 1908 – Standard Specifications for Construction
Unless the Contractor has presented an Affidavit showing the total dollar amounts of work performed by Disadvantaged Business Enterprises (DBE), final payment may be withheld.

APPENDIX E
ARDC Contract Template A

AGREEMENT FOR CONSULTING SERVICES
between
ARROWHEAD REGIONAL DEVELOPMENT COMMISSION
and
(FULL NAME OF INDEPENDENT CONTRACTOR)

THIS AGREEMENT ("Agreement") is made effective as of the _____ day of _____, 20__ by and between Arrowhead Regional Development Commission, a political subdivision of the State of Minnesota, hereinafter referred to as "ARDC", and _____, hereinafter referred to as "Consultant" in response to the following situation:

A. ARDC desires to (Describe work desired to be done) ("Project").

B. Consultant is willing to provide consulting services with regard to the Project to ARDC pursuant to these terms of this Agreement.

NOW, THEREFORE, ARDC and the Consultant do mutually agree as follows:

1. Services to be Performed. Consultant agrees that it will perform the scope of services (Work) as set forth in Exhibit A attached hereto, in an expeditious, good and workmanlike manner and in accordance with the practices customary in the industry. The Work shall be completed within time schedules as to be determined by ARDC and Consultant.

1.1 The contact person for ARDC shall be Ron Chicka, Director, Duluth-Superior Metropolitan Interstate Council, 221 W First St, Duluth MN 55802, 218-529-7506, rchicka@ardc.org, or his/her successor. ARDC's Authorized Representative has the responsibility to monitor Consultant's performance and the authority to accept the services provided under this Agreement.

Consultant's Authorized Representative is: _____ _____. If its Authorized Representative changes at any time during this agreement, Consultant will immediately notify contact person Ron Chicka, Director, Duluth-Superior Metropolitan Interstate Council, above.

2. Personnel. Consultant will secure, at his/her/its own expense, all personnel required to perform the services under this Agreement, and such personnel shall not be the employee(s) of, nor have a contractual relationship with, ARDC.

3. Assignability. Consultant shall not assign any interest in this Agreement, shall not contract with others to perform Consultant's services and shall not transfer any interest in this Agreement without the prior written approval of ARDC.

4. Agreement Period. This Agreement shall be effective as of the date hereof and shall continue until _____ unless sooner terminated as provided in paragraph 5 hereof.

5. Termination of Agreement. Either Consultant or ARDC may, by giving written notice specifying the effective date which shall not be less than thirty (30) days from the date such notice is given, terminate this Agreement in whole or in part. In the event of termination, all property and finished or unfinished documents and other writings prepared by the Consultant under this Agreement shall be delivered to ARDC and Consultant shall be entitled to compensation for time expended and expenses incurred to the date of termination.

6. Independent Contractor. The relationship between the Consultant and ARDC shall be that of an independent contractor. Nothing herein shall in any way make or create any employer/employee relationship between ARDC and Consultant.

7. Standard of Performance and Insurance; Indemnity. All services to be performed by Consultant hereunder shall be performed in a skilled, professional and non-negligent manner. Consultant shall obtain and maintain at his/her/its cost and expense:

7.1 Comprehensive general liability insurance that covers the consultant services performed by Consultant for ARDC with a combined single limit of liability of at least Two Million Dollars ($2,000,000.00).

7.2 Errors and omissions or equivalent insurance that covers the consultant services performed by Consultant for ARDC with a combined single limit of liability of at least Two Million Dollars ($2,000,000.00).

7.3 Worker's compensation insurance covering Consultant (if an individual) all of Consultant's employees with coverages and limits of coverage required by law.

Consultant shall indemnify and hold harmless ARDC from and against all errors, omissions and/or negligent acts causing claims, damages, liabilities and damages arising out of the performance of his/her/its services hereunder.

Consultant certifies that Consultant is in compliance with all applicable worker's compensation laws, rules and regulations. Neither Consultant (if an individual) nor Consultant's employees and agents will be considered ARDC employees. Any claims that may arise under any worker's compensation laws on behalf of any employee of Consultant and any claims made by any third party as a consequence of any act or omission on the part of Consultant or any employee of Consultant are in no way ARDC's obligation or responsibility. By signing this Agreement, Consultant certifies that Consultant is in compliance with these laws and regulations.

Consultant shall deliver to ARDC, concurrent with the execution of this Agreement, one or more certificate(s) of insurance evidencing that Consultant has the insurance required by this Agreement in full force and effect. ARDC shall be named as additional insured under such policy(ies). The insurer will provide at least thirty (30) days prior written notice to ARDC, without fail, of any cancellation, non-renewal, or modification of any of the policy(ies) or coverage evidenced by said certificate(s) for any cause, except for nonpayment of premium. The insurer will provide at least ten (10) days prior written notice to ARDC, without fail, of any cancellation of

any of the policy(ies) or coverage evidenced by said certificate(s) for nonpayment of premium. Consultant shall provide ARDC with appropriate endorsements to its policy(ies) reflecting the status of ARDC as an additional insured and requiring that the foregoing required notice of cancellation, material alteration or non-renewal be provided ARDC by the insurance company providing such insurance policy to Consultant.

Consultant shall require any subcontractor permitted by ARDC under Section 3 hereof to perform work for Consultant on the Project to have in full force and effect the insurance coverage required of the Consultant under this Agreement before any subcontractor(s) begin(s) work on the Project. Consultant shall require any such subcontractor to provide to Consultant a Certificate of Insurance evidencing that such subcontractor has the insurance required by this Agreement in full force and effect. The Consultant and ARDC shall be named as additional insureds under such policies. The insurer will provide 30 day written notice to ARDC and Consultant, without fail, of any cancellation, non-renewal, or modification of the policy(ies) or coverage evidenced by said certificate(s) for any cause, except for nonpayment of premium. The insurer will provide at least ten (10) days prior written notice to ARDC, without fail, of any cancellation of any of the policy(ies) or coverage evidenced by said certificate(s) for nonpayment of premium. ARDC shall also be provided with appropriate endorsements to its policy(ies) reflecting the status of ARDC as an additional insured and requiring that the foregoing required notice of cancellation, material alteration or non-renewal be provided ARDC by the insurance company providing such insurance policy(ies).

8. Other Projects. Consultant and ARDC may, by separate agreement, identify other projects for which the services of the Consultant are desired and that are outside the scope of this Agreement. Such separate agreement shall specify the work to be performed on such separate projects and the fees to be paid to the Consultant in connection with such special projects.

9. Compensation. Consultant shall be compensated for the services to be performed hereunder as set forth in Exhibit B. Consultant shall submit to ARDC monthly itemized statements of services rendered during each month setting forth the date such services were rendered, a description of the services rendered, the person performing such services and the amount of time expended in performing such services.

10. Recordkeeping. Consultant hereby agrees:

10.1 To maintain all books, documents, papers, accounting records and other evidence pertaining to the fees and expenses for which it seeks payment or reimbursement hereunder and appropriate records with respect to the services performed by it under this Agreement.

10.2 To make such materials available at its office at all reasonable times during the Agreement Term and for six (6) years from the date of final payment under this Agreement for inspection by ARDC and copies thereof shall be furnished to ARDC upon request by ARDC.

10.3 ARDC has advised Consultant that it is subject to the Minnesota Government Data Practices Act, Chapter 13 of the Minnesota Statutes, including Section 13.05, Subd. 11.

Minnesota Statutes, Chapter 13, provides that all government data are public unless otherwise classified. If Contractor receives a request to release the data referred to in this Section, Contractor must immediately notify ARDC and consult with ARDC as to how Contractor should respond to the request. Contractor's response shall comply with applicable law, including that the response is timely and, if Contractor denies access to the data, that Contractor's response references the statutory basis upon which Contractor relied. Contractor does not have a duty to provide public data to the public if the public data is available from ARDC.

11. No Prohibited Interest. Consultant represents and warrants to ARDC that, to the best of its knowledge, no employee, officer or agent of ARDC, any member of the family of any such person, any partner of any such person or any organization which employs or is about to employ any of the above has a financial or other interest in the business of Consultant.

12. Liability. Consultant must indemnify, save, and hold ARDC, the Metropolitan Interstate Council, its agents, and employees harmless from any claims or causes of action, including attorney's fees incurred by ARDC, arising from the performance of this Contract by Consultant's agents or employees. This clause will not be construed to bar any legal remedies Consultant may have for ARDC's failure to fulfill its obligations under this agreement.

13. Waivers. If the MIC fails to enforce any provision of this agreement, that failure does not waive the provision or the MIC's right to subsequently enforce it.

14. Confidentiality. Consultant agrees that, at all times, both during the term of this Agreement and after the termination of this Agreement, it will be faithful to ARDC by not divulging, disclosing or communicating to any person, firm or corporation, in any manner whatsoever, except in furtherance of the business of ARDC or as required by any applicable law, rule, regulation or ordinance of ARDC or any other governmental authority, any information of any kind, nature or description concerning any matters affecting or relating to the business, employees, agents, customers of ARDC, or parties contracting with ARDC.

15. Intellectual Property Rights. For the purposes of this Agreement, Project Materials means copyrights and all works developed in the performance of this Agreement, including, but not limited to, the finished product and any deliverables, including any software or data.

15.1 Project Materials do not include any materials that Consultant developed, acquired or otherwise owned or had a license to use prior to the date of this Agreement.

15.2 All Project Materials are agreed by Consultant to be "works made for hire" as defined under 17 U.S.C. §101, for which ARDC has the sole and exclusive right, title and interest, including all rights to ownership and copyright and/or patent. In

addition, Consultant hereby assigns all right, title and interest, including rights of ownership and copyright in the Project Materials to ARDC.

15.3 Consultant shall provide ARDC with copies of all Project Materials.

15.4 Upon request by Consultant, ARDC may authorize Consultant to use specified Project Materials to evidence Consultant's professional capabilities. In all such uses of Project Materials by Consultant, reference shall be made to ARDC and the Project and that the Project Materials are owned by ARDC.

15.5 Consultant also acknowledges and agrees that all names and logos provided to Consultant by ARDC for use in connection with the Project are and shall remain the sole and exclusive property of ARDC.

15.6 Consultant agrees not to use the name, logo, or any other marks owned by or associated with ARDC or the name of any representative of ARDC in any sales promotion work or advertising, or in any form of publicity, without the prior written permission of ARDC in each instance. However, Consultant may use the name of ARDC in a document required to be filed with, or provided to, any governmental authority or regulatory agency to comply with applicable legal or regulatory requirements. Consultant agrees to provide ARDC with a copy of any such document.

16. Notices. Any notice required to be given under this Agreement shall be deemed sufficient if in writing, sent by mail to the last known office address of Consultant, or to ARDC at 221 West First Street, Duluth, Minnesota 55802.

17. Governing Law, Jurisdiction, and Venue**.** Minnesota law, without regard to its choice-of-law provisions, governs this agreement. Venue for all legal proceedings out of this agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction St Louis County, Minnesota

18. Miscellaneous. This Agreement constitutes the sole and complete agreement relating to the subject matter of this Agreement between the parties, superseding any and all other agreements between the parties and no verbal or other statements, inducements or representations have been made or relied upon by either party. Any amendments to this agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original agreement, or their successors in office.

19. No Contractual Authority. Consultant shall have no authority to enter into any contracts or agreements binding upon ARDC or to create any obligations on the part of ARDC.

THE BALANCE OF THIS PAGE HAS BEEN INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, ARDC and the Consultant have executed this Agreement as of the date first above written.

ARROWHEAD REGIONAL DEVELOPMENT COMMISSION

By: _____

Its _____

Date: _____

And By: _____

Its _____

Date: _____

CONSULTANT

By: _____

Its _____

Print Name: _____

Date: _____

EXHIBIT A

[SCOPE OF SERVICES]

EXHIBIT B

[COMPENSATION]