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

INVITATION TO BID

LEAD SERVICE LINE REPLACEMENT FILTER PITCHER AND TEST KIT SERVICES

BID NUMBER: **25-99301** **BID OPENING: Tuesday, March 4, 2025 AT 2:00 PM**

PROJECT DESCRIPTION: The City of Duluth is seeking a program partner to provide and ship water filter pitchers and post-replacement water sample kits to residents enrolled in multiple lead service line replacement projects.

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

The selected contractor will be issued a Service and Supply agreement. Notice to Proceed will be issued once the agreement is fully executed.

Proposal forms, contract documents, plans and specifications are on file at Minnesota Builder's Exchange and Builder's Exchange of Wisconsin.

INSTRUCTIONS TO BIDDERS

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

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

Bids must be received in Purchasing before the bid deadline specified above. The City Purchasing Agent or her designee will conduct a public bid opening immediately following receipt of the bids. Bidders wishing to view the opening can visit http://www.duluthmn.gov/purchasing/bids-request-for-proposals/ and select the appropriate link.

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

The City of Duluth reserves the right to split the award where there is a substantial savings to the City, to waive informalities and to reject any and all bids. Price may not be the only consideration for bid award. Bids must be firm for a minimum of 60 days.

The following documents must be submitted with your bid:

1. **Bid Surety** - A certified check or bank draft, payable to the order of the City of Duluth, negotiable U.S. Government Bonds (at par value), or a satisfactory bid bond executed by the bidder and acceptable surety, in an amount equal to five per cent (5%) of the total bid. Bids may be withdrawn without forfeiture of surety if the request is submitted by the Bidder and received at the Purchasing Office in writing or by e-mail prior to the scheduled bid opening.

2. **Acknowledgment of Addendum –** any changes to this solicitation will be announced via Addendum.

Bidders must indicate that they have reviewed any addendum(s) by initialing and dating on the bid form where indicated. Failure to acknowledge addendum(s) may result in your bid being deemed non-responsive.

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

1. **Insurance** – Contractor must provide proof of Public Liability and Automobile Liability Insurance with limits not less than $1,500,000 Single Limit prior to the commencement of work. The City of Duluth must be named as an additional insured. Please refer to the draft Agreement, Section 6.

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

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

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

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

CITY OF DULUTH

Patrice Stalvig
Purchasing Agent

SPECIAL PROVISIONS

Lead Service Line Replacement
Filter Pitcher and Test Kit Services

City Project # 2303

City of Duluth, Minnesota
411 West 1st Street
Duluth, MN 55802

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SP-1 SCOPE OF SERVICES

1.1 GENERAL: The City of Duluth is seeking a program partner to provide and ship water filter pitchers and post-replacement water sample kits to residents enrolled in multiple lead service line replacement projects. Required services include data management, providing an online data dashboard, providing & shipping filter pitchers, providing & shipping water sample kits, test kit reminder calls, lab analysis, and test result notifications.

1.2 PROJECT MANAGEMENT: The City requires a Pitcher Program and Water Sampling Program to support the disbursement of water service pitchers, filters, and testing kits for its 2025 lead service line replacement (LSLR) projects which include approximately 1900 LSLRs as part of at least 7 separate construction projects. 1,900 LSLRs will require an estimated 2,350 filter pitcher deliveries, 1,800 test kits deliveries, 1,800 reminder calls, and 1,100 laboratory analyses with result notifications. LSLR sites will be tracked by project number. Invoices will be submitted individually by project number. The City will provide updated data sets similar to Appendices A, B & C every 2-4 weeks during the construction season to provide updated address and contact information and initiate filter pitcher and sample kit shipments.

1.3 DASHBOARD AND DATA MANAGEMENT: The selected Contractor shall provide a Pitcher Program and Water Testing online database to house all information with a dashboard for use by the City. The database shall include project & site numbers, addresses, service replacement dates, shipment tracking information, and lead analysis results for all City of Duluth Lead Service Lines (LSLs). The Program Dashboard will be populated by information stored within the online database and will feature a dynamic, real-time display that shows the return rate of sample bottles to the lab, dates of pitcher filter and sample kit delivery, and water quality testing results. The Dashboard will contain interactive options to search, sort, view and export date as well as request shipment of individual filter pitchers and test kits for unique and urgent disbursement needs. The Dashboard shall be customizable to accomplish the unique requirements of the City of Duluth.

1.4 FILTER PITCHER FULFILMENT: The selected Contractor shall provide each residential unit with a 10-cup capacity pitcher and 6-months of filters no earlier than 30 days before the lead service line replacement is scheduled to take place. The filter shall be shipped in protective packaging and include City of Duluth branding. The filter pitcher kits shall include approved literature regarding LSLRs, filter usage, public health information and flushing. Filters provided will have been certified by the Water Quality Administration (WQA) or the National Sanitation Foundation (NSF) against the NSF/ANSI Standards 42 and 53. The selected Contractor shall track all pitcher filter and sample kit shipments through an API connection to a shipping software which will allow for automatic tracking updates and delivery notifications. The data displayed on the Program Dashboard will be dynamic and update automatically once packages are delivered to their destination.

1.5 SAMPLE KIT FULFILMENT: The selected Contractor shall provide Sample kits to each resident between four to six months after their lead service line (LSL) replacement. The kit will include a 1L HDPE wide-mouth sample bottle, a chain of custody form, instructions on how to collect the sample, and pre-paid return postage for shipping the sample to the lab for analysis. The outside of the box will feature a sticker that clearly identifies the contents of the box.

1.6 REMINDER CALLS: The Contractor's communication team will follow-up with the customer one week after sample kit delivery to make sure that the kit was delivered, to remind the resident to use the kit, and to answer any questions on the sample collection procedure. For return postage,

the Contractor will utilize USPS and select a box or poly mailer that fits in a standard mailbox for ease of return.

1.7 LABORATORY ANALYSIS: The Selected Contractor will have water samples tested for lead concentrations by an accredited laboratory. Upon receipt of analysis results, the selected Contractor will upload the EDD to the database for display on the Program Dashboard. An automatic notification will be sent to the City of Duluth via email upon receipt of a lead exceedance reported by the lab. A letter detailing the results of the testing and a physical copy of the laboratory report will be sent to the resident within 24-48 business hours of receiving the report from the lab. All resident-facing communications under the project will be developed by the selected Contractor's communications team in collaboration with the City of Duluth to ensure that residents have a clear understanding of their results and are informed of next steps if elevated levels of lead are found.

SP-2 CHANGES IN QUANTITY

The work quantities in these Special Provisions are estimates. Actual project sizes and quantities of items required will depend on field conditions, resident responsiveness and project funding availability. The City reserves the right to adjust quantities or eliminate work. In such circumstances, the Contractor will be paid only for that work satisfactorily performed for which costs can be substantiated.

SP-3 CONTRACT RENEWAL

The City of Duluth anticipates the continuation of LSLR projects beyond 2025 with approximately 2,000 LSLRs planned annually for 2026 and 2027. The selected contractor will have the option to renew the contract for services as described on an annual basis for up to two (2) additional one-year terms, subject to mutual agreement of both parties. Either party may decline to renew the Agreement by providing 30 days' written notice of non-renewal to the other party prior.

SP-4 FUNDING

This purchase is being funded in whole or in part by Minnesota Public Facilities Authority, Clean Water Revolving Fund. Attached federal supplementary provisions shall apply.

SP-5 ACCESS TO PROPOSAL PACKAGE

Bidders shall access the proposal package electronically through the City's Purchasing website at https://duluthmn.gov/purchasing/bids-request-for-proposals/.

Please submit Exhibit A – Schedule of Prices to the City of Duluth Purchasing Office at 411 W. 1st. St., Room 160, Duluth, MN 55802 by the time listed on the Invitation to Bid.

SP-6 DISQUALIFICATION OF BIDDERS

Contractors who are debarred or suspended under Minnesota Statutes 161.315 Protection of Public Contracts will not be eligible for award of this contract or to act as a subcontractor to any contractor under this contract. Incomplete bids will not be considered.

SP-7 CONTACT INFORMATION

Questions regarding this project should be directed to: Purchasing@duluthmn.gov

- END -

City of Duluth
Supplementary Provisions – State & Federal Funding

1. Disbursements
   a. No money under this Contract shall be disbursed by the City to any Contractor unless the Contractor is in compliance with the Federal Agency requirements with regard to accounting and fiscal matters to the extent they are applicable.
   b. Unearned payments under this Contract may be suspended or terminated upon the Contractor's refusal to accept any additional conditions that may be imposed by the Federal Agency at any time; or if the grant, if applicable, to the City under which this Contract is made is suspended or terminated.

2. Subcontracting Requirements
   a. The Contractor shall include in any subcontract the clauses set forth in these City of Duluth Supplementary Provisions in their entirety and shall also include a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.
   b. The Contractor shall not subcontract any part of the work covered by this Contract or permit subcontracted work to be further subcontracted without the City's prior written approval of the subcontractors. The City will not approve any subcontractor for work covered by this Contract who is at the time ineligible under the provisions of any applicable regulations issued by a Federal Agency or the Secretary of Labor, United States Department of Labor, to receive an award of such subcontract.

3. Breach of Contract.

The City may, subject to the Force Majeure provisions below and in addition to its other rights under the Contract, declare the Contractor in breach of the Contract by written notice thereof to the Contractor, and terminate the Contract in whole or in part, in accordance with Section 4, Termination, for reasons including but not limited to any of the following:

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

4. Termination

If the Contractor is in breach of the Contract, the City, by written notice to the Contractor, may

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

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

Notwithstanding anything herein to the contrary, the City may terminate this Contract at any time upon written notice given by the City (for any reason, including the convenience of the City) to the Contractor at least thirty (30) days prior to the effective date of the termination of this Contract. The City agrees that termination hereunder will not relieve the City of its obligation to pay Contractor for Work satisfactorily performed and reasonable costs incurred prior to the effective date of the termination provided that Contractor has not committed a breach of this Contract. Nothing contained in this section shall prevent either party from pursuing or collecting any damages to which it may be entitled by law.

5. Force Majeure.

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

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

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

a. Placing qualified socioeconomic firms on solicitation lists;
b. Assuring that socioeconomic firms are solicited whenever they are potential sources;
c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit

maximum participation by socioeconomic firms;

d. Establishing delivery schedules, where the requirements permit, which encourage participation by socioeconomic firms; and
e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

7. Good Faith Efforts.

For purposes of this section, a DBE means an entity owned or controlled by a socially and economically disadvantaged individual as described by Public Law 102-389 (42 U.S.C. 4370d) or as described by Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note); a Small Business Enterprise (SBE); a Small Business in a Rural Area (SBRA); or a Labor Surplus Area Firm (LSAF, a Historically Underutilized Business (HUB) Zone Small Business Concern, or a concern under a successor program.

Per 40 CFR 33.301, prime contractor must make the following good faith efforts whenever procuring construction, equipment, services and supplies:

a. Ensure Disadvantaged Business Enterprises (DBEs) are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
b. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
c. Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
d. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
e. Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

Additional contract administrative requirements per 40 CFR 33.302 are:

a. Prime contractor must notify the City in prior to any termination of a DBE subcontractor for convenience by the prime contractor.
b. If a DBE subcontractor fails to complete work under the subcontract for any reason, the prime contractor must employ the six good faith efforts summarized above if soliciting a replacement subcontractor.
c. Prime contractor must provide EPA Form 6100-2 - DBE Program Subcontractor Participation Form to all of its DBE subcontractors. EPA Form 6100-2 gives a DBE subcontractor the opportunity to describe the work the DBE subcontractor received from the prime contractor, how much the DBE subcontractor was paid and any other concerns the DBE subcontractor might have, for example reasons why the DBE subcontractor believes it was terminated by the prime contractor. DBE subcontractors may send completed copies of EPA Form 6100-2 directly to the appropriate EPA DBE Coordinator.
d. Prime contractor must have its DBE subcontractors complete EPA Form 6100-3 - DBE Program Subcontractor Performance Form, and include all completed forms as part of the prime

contractor's bid or proposal package.

e. Prime contractor must complete and submit EPA Form 6100-4 - DBE Program Subcontractor Utilization Form as part of the prime contractor's bid or proposal package.

f. Copies of EPA Form 6100-2 - DBE Program Subcontractor Participation Form, EPA Form 6100-3 - DBE Program Subcontractor Performance Form and EPA Form 6100-4 - DBE Program Subcontractor Utilization Form may be obtained from EPA OSDBU's Home Page on the Internet or directly from EPA OSDBU.

8. Clean Air Act and Federal Water Pollution Control Act

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Contractor agrees to include this provision in any subcontract exceeding $150,000 that is financed in whole or in part with Federal funds.

9. Energy Standards.

Contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

10. Suspension and Debarment.

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

11. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors must certify that that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence 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.

12. Procurement of Recovered Materials

In the performance of this contract, the Contractor shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. This shall include making maximum use of products containing recovered materials as designated by the Environmental Protection Agency (EPA) unless (i) the materials cannot be acquired competitively and within the timeframe required by the contract performance schedule; (ii) the materials designated by the EPA do not meet contract performance requirements; or (iii) the materials cannot be acquired for a reasonable price. Information about this requirement, along with the list of EPA- designated items, is available at the EPA’s

Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program .

13. Telecommunications and Video Surveillance Services or Equipment

In the performance of this contract, Contractor/Supplier shall comply with Public Law 115-232, Section 889, which prohibits the procurement or use of covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, use of video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) is prohibited.

In addition, telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country is prohibited.

14. Domestic Preferences for Procurements

As appropriate and to the extent consistent with law, Contractor shall, to the greatest extent practicable under a Federal award, supply and/or use goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). For purposes of this section, “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Contractors shall include the preceding language in all subcontracts.

CITY OF DULUTH
ADDITIONAL CONDITIONS PER FUNDING SOURCE
LEAD SERVICE LINE REPLACEMENT FILTER PITCHER AND TEST KIT SERVICES
25-99301

The Recipient, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Whistleblower Protection.

(a) The Recipient acknowledges that it is a "grantee" within the scope of 41 U.S.C. 4712, which prohibits the Recipient from taking certain actions against an employee for certain disclosures of information that the employee reasonably believes are evidence of gross mismanagement of the Grant Program award, gross waste of Federal funds, or a violation of Federal law related this this award.
(b) The Recipient shall inform its employees in writing of the rights and remedies provided under 41 U.S.C. 4712, in the predominant native language of the workforce.

Trafficking.

Contractor, its employees, its subcontractor and their employees, may not -
(1) Engage in severe forms of trafficking in persons;
(2) Procure a commercial sex act during the period of time that the grant or cooperative agreement is in effect;
(3) Use forced labor in the performance of the grant or cooperative agreement; or
(4) Engage in acts that directly support or advance trafficking in persons, including the following acts:
(i) Destroying, concealing, removing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents;
(ii) Failing to provide return transportation or pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless:
(A) exempted from the requirement to provide or pay for such return transportation by the Federal department or agency providing or entering into the grant or cooperative agreement; or
(B) the employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or a witness in a human trafficking enforcement action;
(iii) Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment;
(iv) Charging recruited employees a placement or recruitment fee; or
(v) Providing or arranging housing that fails to meet the host country's housing and safety standards.

1.1 BUILD AMERICA, BUY AMERICA (BABA)

1.1.1 BABA Resources

Environmental Protection Agency Guidance and Resources

Environmental Protection Agency main webpage: Build America, Buy America (BABA) | US EPA

Environmental Protection Agency BABA De Minimis Waiver: US EPA BABA De Minimis Waiver

Environmental Protection Agency BABA Minor Components Waiver: Public Interest: Minor Components of Iron and Steel Products Waiver for Build America, Buy America Act (epa.gov)

1.1.2 Sample Build America, Buy America Contract Language

The BABA language below is a sample from the Environmental Protection Agency's November 3, 2022 memorandum (OW-BABA-Implementation-Procedures-Final-November-2022.pdf (epa.gov)). Include actual BABA language into project specifications and construction contracts and sub-contracts.

Example Build America, Buy America (BABA) Act Construction Contract Language

ALL CONSTRUCTION CONTRACTS MUST HAVE A CLAUSE REQUIRING COMPLIANCE WITH THE BABA REQUIREMENTS. THIS IS AN EXAMPLE OF WHAT COULD BE INCLUDED IN A PROJECT'S CONSTRUCTION CONTRACT THAT USE STATE REVOLVING FUNDS (SRF). EPA MAKES NO CLAIMS REGARDING THE LEGALITY OF THIS CLAUSE WITH RESPECT TO STATE OR LOCAL LAW:

The Contractor acknowledges to and for the benefit of the _____ ("Owner") and the _____ (the "Funding Authority") that it understands the goods and services under this Agreement are being funded with federal monies and have statutory requirements commonly known as "Build America, Buy America;" that requires all of the iron and steel, manufactured products, and construction materials used in the project to be produced in the United States ("Build America, Buy America Requirements") including iron and steel, manufactured products, and construction materials provided by the Contactor pursuant to this Agreement. The Contractor hereby represents and warrants to and for the benefit of the Owner and Funding Authority (a) the Contractor has reviewed and understands the Build America, Buy America Requirements, (b) all of the iron and steel, manufactured products, and construction materials used in the project will be and/or have been produced in the United States in a manner that complies with the Build America, Buy America Requirements, unless a waiver of the requirements is approved, and (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the Build America, Buy America Requirements, as may be requested by the

Owner or the Funding Authority. Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Owner or Funding Authority to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Owner or Funding Authority resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the Funding Authority or any damages owed to the Funding Authority by the Owner). If the Contractor has no direct contractual privity with the Funding Authority, as a lender or awardee to the Owner for the funding of its project, the Owner and the Contractor agree that the Funding Authority is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the Funding Authority.

1.1.3 Build America, Buy America De Minimis Waiver Tracking Form

The Environmental Protection Agency (EPA) granted a national waiver for de minimis components (US EPA BABA De Minimis Waiver) for eligible water infrastructure projects. Products that qualify for a de minimis waiver cumulatively may comprise no more than a total of five percent of the total project cost. Please note the BABA de minimis waiver is not additive to the existing American Iron and Steel national de minimis waiver.

To use the de minimis waiver, SRF recipients "should in consultation with their contractors determine the items to be covered by this waiver and must retain relevant documentation (i.e. invoices) as to those items in their project files." Recipients must maintain documentation (i.e., invoices) for the de minimis items in the project file and submit a summary report to the PFA at project conclusion, or sooner, if available. An example tracking form for BABA de minimis is included on the next page.

Minnesota State Revolving Funds (CWRF and DWRF)
Use of Build America, Buy America - De Minimis Final Utilization and Certification Form

Use of Build America, Buy America (BABA) is required for CWRF and DWRF-funded projects unless the project qualifed for a waiver. The Environmental Protection Agency has issued a public interest waiver for De Minimis components. The PFA recipient wishing to use this waiver should consult with their contractor(s) to maintain an itemized list of components covered under De Minimis. At the conclusion of the project, this form must be completed and retained in the assistance recipient's project files and a copy provided to the Public Facilities Authority. **It is strongly recommended that you maintain a list as the project progresses**.
Please print clearly or type. EPA Deminimis Waiver:

US EPA BABA De Minimis Waiver

PFA Recipient: _____ Loan #: _____

Project Name: _____

NOTE: The De Minimis waiver is only applicable to the cost of the total project. Recipients must have sufficient documentation to support all costs included in this calculation. NOTE: the BABA De Minimis waiver is not additive with the existing American Iron and Steel national de minimis waiver.

Funds used for de minimis incidental components cumulatively may comprise no more than a total of 5 percent of the total project

Total Project Cost: _____ 5% Limit: _____

Manufacturer & Component Description	Part/Model #	Quantity (if applicable)	Cost per Unit (if applicable)	Component's Total Cost	How is Cost Documented?*

Use additional sheets as necessary

Total Cost of Components deemed to be De Minimis: _____

If approaching the 5% limit, contact PFA immediately

* Documentation must demonstrate confirmation of the components' actual costs (invoice, etc.).

Completed by:

Name: _____ Title: _____

Signature: _____ Date: _____

1.1.4 Build America, Buy America Documentation

Contractors must comply with and provide documentation that shows compliance with BABA requirements. Product certifications letters need to include the following five items:

1. Documentation linked to the project. Identify the project name, project location, contract number, or project number.
2. Documentation linked to the product used on the project. Description of product(s) (simple explanation sufficient to identify the product(s)), or an attached (or electronic link to) purchase order, invoice, or bill of lading.
3. Documentation includes statement attesting that the products supplied to the PFA Recipient are compliant with BABA requirement. Reference to the Infrastructure Investment and Jobs Act (IIJA) or the Bipartisan Infrastructure Law (BIL) are also acceptable. For iron and steel items under BABA, references to the American Iron and Steel (AIS) requirement are also acceptable and reciprocal with BABA for such items.
4. Documentation that manufacturing occurred in the United States, which could include, for example, the location(s) of manufacturing for each manufacturing step that is being certified. It is acceptable for manufactured products to note a single point of manufacturing, documenting that the final point of manufacturing is in the United States. Note that each BABA category may require different determinations for compliance.
5. Signature of company representative (on company letterhead and signature can be electronic). The signatory of the certifying statement affirms their knowledge of the manufacturing processes for the referenced product(s) and attests that the produce meets the BABA requirements.

1.2 DISADVANTAGED BUSINESS ENTERPRISES (DBE)

1.2.1 Good Faith Efforts

Borrowers and their prime contractors must follow, document, and maintain documentation of their good faith efforts as listed below to ensure that Disadvantage Business Enterprises (DBEs) have the opportunity to participate in the project by increasing DBE awareness of procurement efforts and outreach. This applies to procurement for construction, equipment, supplies and services.

1. Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities; including placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
2. Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitation for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
3. Consider in the contracting process whether firms competing for large contracts could be subcontracted with DBEs. This will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
4. Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.
5. Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the U. S. Department of Commerce.
6. If the prime contractor awards subcontracts, require the prime contractor to take the steps in numbers 1 through 5 above.

1.2.2 Certified M/WBE Firms

M/WBE firms certified by the Minnesota Unified Certification Program, the Small Business Administration (SBA) of the Department of Transportation can be counted towards the M/WBE reporting to PFA. See “How do I find information on DOT’s and SBA’s certification programs?”

Frequently Asked Questions for Disadvantaged Business Enterprises | US EPA

US DOT Office of Small and Disadvantaged Business Utilization | US Department of Transportation

Women-Owned Small Business Federal Contract program (sba.gov)

8(a) Business Development program (sba.gov)

To see whether a firm is a certified firm eligible to be counted as a M/WBE firm, check the *Minnesota Unified Certification Program Directory* or the *SBA Dynamic Small Business Search Directory*. Links are listed below.

Minnesota Unified Certification Program: http://mnucp.metc.state.mn.us/ includes a free search engine that lists certified DBE contractors and suppliers. Links to this directory are also on the MN Department of Transportation website: http://www.dot.state.mn.us/civilrights/

Small Business Administration **Dynamic Small Business Search** – search engine that lists businesses with 8(a) Certifications; Small Disadvantaged Business Certifications; HUBZone Certifications and DBE Certifications. Check contractor detail to see what current certifications are in place. Dynamic Small Business Search can be found at this link https://www.sba.gov/partners/contracting-officials/small-business-procurement under "Finding Contractors".

1.2.3 Other Minority/Women Business Enterprises Resources

- *A*ssociation of Women Contractors http://www.awcmn.org/
- Diversity Information Resources, Inc. www.diversityinforesources.com
- Metropolitan Economic Development Association http://www.meda.net/
- Minority Business Development Agency (U. S. Department of Commerce) http://www.mbda.gov/

1.2.4 Minnesota Targeted Business Vendors (State Funded Projects)

The Minnesota Department of Administration maintains a directory for Targeted Group Economically Disadvantaged and Veteran-Owned (TG/ED/VO) businesses Equity in Procurement (TG/ED/VO) Directory / Minnesota Office of State Procurement (mn.gov). The Environmental Protection Agency does not consider Minnesota Department of Administration TG/ED/VO listings as meeting EPA certification requirements; thus TG/ED/VO vendors cannot be counted as M/WBE vendors by the Environmental Protection Agency. However, state-funded projects are encouraged to consider and provide procurement opportunities to vendors on this list.

1.2.5 Definitions

Disadvantaged Business Enterprise (DBE) *– an entity owned or controlled by a socially and economically disadvantaged individual as described by Public Law 102-389 (42 U.S.C. 4370d) or an entity owned and controlled by a socially and economically disadvantaged individual as described by Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note); a Small Business Enterprise (SBE); a Small business in a Rural Area (SBRA); or a Labor Surplus Area Firm (LSAF), a Historically Underutilized business (HUB) Zone Small Business Concern, or a concern under a successor program.*

HUBZone *– a historically underutilized business zone, which is an area located within one or more qualified census tracts, qualified metropolitan counties, or lands within the external boundaries of an Indian Reservation.*

HUBZone Small Business *– a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.*

Labor Surplus Area Firm (LSAF) *– a concern that together with its first-tier subcontractors will perform substantially in labor surplus areas (as identified by the Department of Labor in accordance with 20 CFR Part 654). Performance is substantially in labor surplus areas if the costs incurred under the contract on account of manufacturing, production or performance of approximate services in labor surplus areas exceed 50 percent of the contract price.*

Minority Business Enterprise (MBE) *– a Disadvantaged Business Enterprise (DBE) other than a Small Business Enterprise (SBE), a Labor Surplus Area Firm (LSAF), a Small Business in Rural Areas (SBRA), or a Women's Business Enterprise (WBE). See section on Certified M/WBE Firms, below.*

Procurement *– the acquisition through order, purchase, lease or barter of supplies, equipment, construction or services needed to accomplish Federal assistance programs.*

Small Business in a Rural Area (SBRA) *– a small business operating in an area identified as a rural county with a code 6 to 9 in the Rural-Urban Continuum Classification Code developed by the United States Department of Agriculture in 1980.*

Small Business, Small Business Concern or Small Business Enterprise (SBE) *a concern, including its affiliates, that is independently owned and operated, not dominate in the field of operation in which it is bidding, and qualified as a small business under the criteria and size standards in 13 CFR part 121.*

Women's Business Enterprise (WBE) *– a business concern which is at least 51% owned or controlled by women for purposes of EPA's 8% statute or a business concern which is at least 51% owned and controlled by women for purposes for EPA's 10% statute. Determination of ownership by a married woman in a community property jurisdiction will not be affected by her husband's 50% interest in her share. Similarly, a business concern which is more that 50% owned by a married man will not become a qualified WBE by virtue of his wife's 50% interest in his share. See section on Certified M/WBE Firms, below.*

APPENDIX A

PlatParcel	PropertyStreetAddress	ProjectArea	ProjectNumber	Status	SiteNumber	EstReplacementDate	DispersedBy	BUSINESS_TYPE	BUSINESS_SUBTYPE	NumberOfUnits	ShippingAddress	ShippingCity	ShippingZip
010-1800-02780	1411 99TH AVE W	GARY	2079	COMPLETE	111	2024-05-10	Service_Provider	2 FAMILY	MULTI TENANT	2	1411 99TH AVE W	DULUTH MN	55808
010-1800-07390	309 E GARY ST	GARY	2079	COMPLETE	169	2024-04-30	City	2 FAMILY	MULTI TENANT	1	309 E GARY ST	DULUTH MN	55808
010-1800-07540	402 E GARY ST	GARY	2079	COMPLETE	155	2024-04-24	Service_Provider	1 FAMILY		1	402 E GARY ST	DULUTH MN	55808
010-1800-07920	1221 96TH AVE W	GARY	2079	COMPLETE	156	2024-04-25	Service_Provider	2 FAMILY	MULTI TENANT	2	1221 96TH AVE W	DULUTH MN	55808
010-1800-13720	1112 96TH AVE W	GARY	2079	COMPLETE	158	2024-04-15	Service_Provider	1 FAMILY	SINGLE TENANT	1	1112 96TH AVE W	DULUTH MN	55808
010-3540-02990	1522 98TH AVE W	GARY	2079	COMPLETE	124	2024-05-16	Service_Provider	2 FAMILY	MULTI TENANT	2	1522 98TH AVE W	DULUTH MN	55808
010-1800-02835	1401 99TH AVE W	GARY	2079	COMPLETE	179X	2024-05-09	Service_Provider	1 FAMILY	SINGLE TENANT	1	1401 99TH AVE W	DULUTH MN	55808
010-2550-03490	403 89TH AVE W	Utility Ops 2024	EAM 2024	COMPLETE		2024-01-29	City	1 FAMILY		1	403 89TH AVE W	DULUTH MN	55808
010-2790-02160	1006 N 8TH AVE E	Utility Ops 2024	EAM 2024	COMPLETE		2024-02-06	City	1 FAMILY	MULTI TENANT	1	1006 N 8TH AVE E	DULUTH MN	55805
010-2140-02020	3919 W 4TH ST	Utility Ops 2024	EAM 2024	COMPLETE		2024-04-12	City	1 FAMILY	SINGLE TENANT	1	3919 W 4TH ST	DULUTH MN	55807
010-0470-01950	1205 N 7TH AVE E	Utility Ops 2024	EAM 2024	COMPLETE		2024-03-19	City	1 FAMILY	SINGLE TENANT	1	1205 N 7TH AVE E	DULUTH MN	55805
010-1350-13650	518 E 11TH ST	Utility Ops 2024	EAM 2024	COMPLETE		2024-01-16	City	1 FAMILY	MULTI TENANT	1	518 E 11TH ST	DULUTH MN	55805
010-4510-05640	505 N 56TH AVE W	Utility Ops 2024	EAM 2024	COMPLETE		2024-04-04	City	2 FAMILY	MULTI TENANT	2	505 N 56TH AVE W	DULUTH MN	55807
010-1800-00430	211 W REIS ST	GARY	2079	COMPLETE	42	2024-06-13	Service_Provider	1 FAMILY	SINGLE TENANT	1	211 W REIS ST	DULUTH MN	55808
010-1800-00450	209 W REIS ST	GARY	2079	COMPLETE	41	2024-06-13	Service_Provider	1 FAMILY		1	209 W REIS ST	DULUTH MN	55808
010-1800-00560	1509 102ND AVE W	GARY	2079	COMPLETE	62	2024-05-30	Service_Provider	1 FAMILY		1	1509 102ND AVE W	DULUTH MN	55808
010-1800-00810	1512 101ST AVE W	GARY	2079	COMPLETE	84	2024-05-30	Service_Provider	MULTIPLE DWELLING		11	1512 101ST AVE W	DULUTH MN	55808
010-1800-00830	1514 101ST AVE W	GARY	2079	COMPLETE	83	2024-05-30	Service_Provider	1 FAMILY			1514 101ST AVE W	DULUTH MN	55808
010-1800-05740	1317 101ST AVE W	GARY	2079	COMPLETE	95	2024-07-09	Service_Provider	2 FAMILY	MULTI TENANT	2	1317 101ST AVE W	DULUTH MN	55808

APPENDIX B

ProjectArea	ProjectNumber	SiteNumber	PlatParcel	PropertyStreetAddress	PrimaryContact	PrimaryPhone	SecondaryPhone	Email
RALEIGH	2225	3	010-2300-00060	6111 RALEIGH ST	Redacted	Redacted		
RALEIGH	2225	2	010-2300-00070	6115 RALEIGH ST	Redacted	Redacted	Redacted	Redacted
RALEIGH	2225	1	010-2300-00230	6205 RALEIGH ST	Redacted	Redacted		Redacted
RALEIGH	2225	4	010-2320-00530	201 & 203 S 61ST AVE W	Redacted	Redacted		
RALEIGH	2225	5	010-4500-00880	6018 RALEIGH ST	Redacted	Redacted		Redacted
RALEIGH	2225	6	010-4500-01210	5914 RALEIGH ST	Redacted	Redacted		Redacted
RALEIGH	2225	7	010-4500-01225	5912 RALEIGH ST	Redacted	Redacted		
CHESTER ALLEY	2102	1	010-3720-00950	904 CHESTER PARK DR	Redacted	Redacted		Redacted
CHESTER ALLEY	2102	3	010-3720-00970	912 CHESTER PARK DR	Redacted	Redacted		Redacted
CHESTER ALLEY	2102	5	010-3720-00990	916 CHESTER PARK DR	Redacted	Redacted		Redacted
CHESTER ALLEY	2102	8	010-3720-01000	922 CHESTER PARK DR	Redacted	Redacted		Redacted
CHESTER ALLEY	2102	11	010-3720-01050	928 CHESTER PARK DR	Redacted	Redacted		Redacted
CHESTER ALLEY	2102	12	010-3720-01070	853 GRAND VIEW AVE	Redacted	Redacted		Redacted
CHESTER ALLEY	2102	10	010-3720-01080	847 GRAND VIEW AVE	Redacted	Redacted	Redacted	Redacted
CHESTER ALLEY	2102	9	010-3720-01090	845 GRAND VIEW AVE	Redacted	Redacted	Redacted	Redacted
CHESTER ALLEY	2102	7	010-3720-01120	837 GRAND VIEW AVE	Redacted	Redacted		Redacted
CHESTER ALLEY	2102	6	010-3720-01130	835 GRAND VIEW AVE	Redacted	Redacted		Redacted
CHESTER ALLEY	2102	4	010-3720-01140	831 GRAND VIEW AVE	Redacted	Redacted		Redacted
CHESTER ALLEY	2102	2	010-3720-01150	827 GRAND VIEW AVE	Redacted	Redacted		Redacted

APPENDIX C

ProjectNumber	ProjectArea	RENTAL	NumberOfUnits	PlatParcel	ProperyStreetAddress	WorkAddressInMailing	UnitAddress1	UnitAddress2
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-05420	2125 W 2ND ST	2125 W 2ND ST	2127 W 2ND ST	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-05420	2125 W 2ND ST	2125 W 2ND ST	2125 W 2ND ST	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-01060	2126 W 2ND ST	2126 W 2ND ST	2126 W 2ND ST, APT A	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-01060	2126 W 2ND ST	2126 W 2ND ST	2126 W 2ND ST, APT B	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-01550	2306 W 2ND ST	2306 W 2ND ST	2306 W 2ND ST, APT 1	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-01550	2306 W 2ND ST	2306 W 2ND ST	2306 W 2ND ST, APT 2	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-01905	2422 W 2ND ST	2422 W 2ND ST	2422 W 2ND ST, APT 1	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-01905	2422 W 2ND ST	2422 W 2ND ST	2422 W 2ND ST, APT 2	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-02020	2515 W 1ST ST	2515 W 1ST ST	2515 W 1ST ST, APT 1	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-02020	2515 W 1ST ST	2515 W 1ST ST	2515 W 1ST ST, APT 2	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-02070	2502 W 2ND ST	2502 W 2ND ST	2502 W 2ND ST, APT 1	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-02070	2502 W 2ND ST	2502 W 2ND ST	2502 W 2ND ST, APT 2	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-02480	2625 W 1ST ST	2625 W 1ST ST	2625 W 1ST ST, APT 1	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-02480	2625 W 1ST ST	2625 W 1ST ST	2625 W 1ST ST, APT 2	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-02750	2632 W 2ND ST	2632 W 2ND ST	2632 W 2ND ST, APT 1	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-02750	2632 W 2ND ST	2632 W 2ND ST	2632 W 2ND ST, APT 2	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-02775	107 N 27TH AVE W	107 N 27TH AVE W	107 N 27TH AVE W, APT A	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-02775	107 N 27TH AVE W	107 N 27TH AVE W	107 N 27TH AVE W, APT B	DULUTH MN 55806
2081	LOWER LINCOLN & DC 1	YES	2	010-1140-03010	2710 W 2ND ST	2710 W 2ND ST	2710 W 2ND ST, APT A	DULUTH MN 55806

EXHIBIT A - Schedule of Prices

RQ No. 25-99301 / City Proj. No. 2025

Project Name: LSLR Filter Pitchers & Test Kits (2025)

	Company Name				
Line No.	**Description**	**Unit**	**Est. Qty**	**Unit Price**	**Total Price**
1	Project Administration	Lump Sum	1.00		$ -
2	Pitcher Kit	Each	2,350.00		$ -
3	Sample Kit	Each	1,800.00		$ -
4	Reminder Calls (Include up to 2 per test kit)	Each	1,500.00		$ -
5	Lab Analysis & Results Notification	Each	1,100.00		$ -
			TOTAL:		$ -

SUPPLY & SERVICE AGREEMENT

BY AND BETWEEN

SUPPLIER

AND

CITY OF DULUTH

THIS SUPPLY AGREEMENT (the "Agreement"), effective as of the date of attestation by the City Clerk (the "Effective Date"), is made by and between the CITY OF DULUTH, a municipal corporation under laws of the State of Minnesota, hereinafter referred to as "City," and SUPPLIER**,** located at ADDRESS, hereinafter referred to as "Supplier," for the purpose of providing the below-described Product to the City.

WHEREAS, the City issued an Invitation for Bids (the "IFB") for the provision of SERVICES/PRODUCTS conforming to the specifications contained in the IFB (the "Product"), which IFB shall be deemed to be part of this agreement;

WHEREAS, Supplier is in the business of providing the Product to its customers;

WHEREAS, Supplier submitted a responsive bid in response to the IFB (the "Bid") and has represented itself as fully capable of and willing to provide the Product to the City at the pricing and terms set forth in its Bid;

WHEREAS, the City desires to purchase the Product in conformance with the IFB from Supplier in conformance with its Bid;

I. NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

1. Product.

   Supplier will furnish the Product at the pricing and terms set forth in its Bid. A copy of the Bid is attached as Exhibit A.

2. Supplier Responsibilities.

   a. Supplier shall be responsible for and shall bear any and all risk of loss or damages to the Product until the Product are delivered to the Site and received and accepted by the City as conforming to the IFB, subject to rejection or revocation as described in Section 2.c. below.

SAMPLE

b. Supplier shall adequately wrap, pack, crate, load, enclose and brace Product to be furnished under the Agreement to insure its delivery to City in a good and undamaged condition, conforming to the IFB.

c. City may reject at any time any unit of the Product or the entire shipment of the Product which does not conform to the requirements of the IFB or that is damaged or otherwise unsuitable for the City's use.

d. Supplier shall bear all risks as to rejected Product after notice of rejection or revocation of acceptance. City shall only be responsible for the loss, or destruction of, or damage to the rejected Product in City's possession if such loss, destruction or damage results from the negligence of City or its employees and agents acting within the scope of their employment.

e. Supplier shall provide as a part of its services adequate testing and inspection to ensure complete compliance of the Product with the specifications. Such testing and inspection shall not imply acceptance of Product by City. Supplier shall provide adequate and competent supervisory personnel to ensure compliance with the specifications. All costs for such testing and inspection shall be paid for by Supplier.

3. Warranties.

a. All Product shall be of the most suitable grade given the intended use by City.

b. Supplier warrants that all Product will conform to the kind, quality and capability designated or described by the Agreement and the project technical specifications for the duration of the project.

c. The rights and remedies of City provided in this Agreement shall not be exclusive and shall be in addition to all other rights and remedies of City (i) as set forth in this Agreement, (ii) under Applicable Law, or (iii) in an equitable proceeding. No failure on the part of City in the exercise of any right or remedy shall operate as a waiver of or by City of its right to exercise any other right or remedy.

d. Inspection, test, acceptance, or use by City of the Product shall not affect Supplier's obligations under Supplier's warranty, and such warranty shall survive inspection, test, acceptance and use when used in accordance with written directions of Supplier (or any third-party manufacturer supplying any part of the Product).

II. Fees

SAMPLE

Supplier agrees to provide the Product at a cost of DOLLAR AMOUNT ($); payable from the following fund: XXX-XXX-XXXX

III. Agreement Period

The term of this Agreement shall commence on the Effective Date and performance shall be completed by END DATE unless terminated earlier as provided for herein.

IV. Termination

Either party may, by giving thirty (30) days written notice, specifying the effective date thereof, terminate this Agreement in whole or in part without cause. Supplier shall be entitled to compensation for goods provided and services in connection thereto properly performed by it to the date of termination of this Agreement. In the event of termination due to a default by Supplier, City by shall retain all other remedies available to it, and City shall be relieved from payment of any fees in respect of the services of Supplier which gave rise to such default.

V. Events of Default and Remedies

Failure of either party to perform any obligation under this agreement shall be a default. Upon written notice by the non-defaulting party specifying the nature of the default, the defaulting party shall have thirty (30) days to cure said default. If the defaulting party fails to cure within 30 days, the non-defaulting party shall have the following remedies available to it:

`1. terminate this agreement;

2. seek and be entitled to monetary damages;

3. institute and action for specific performance to compel performance of any or all of its obligations under this Agreement;

4. seek and be entitled to injunctive relief as is necessary to prevent violations of the terms and conditions of this Agreement;

5. seek such other legal or equitable relief as a court of competent jurisdiction may be determined as available.

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VI. General Terms and Conditions

1. Indemnity

a. The Supplier shall defend, indemnify and save the City harmless from all costs, charges, damages, and loss of any kind that may grow out of the matters covered by this contract. Said obligation does not include indemnification of the City for claims of liability arising out of the sole negligent or intentional acts or omissions of City but shall include but not be limited to the obligation to defend, indemnify and save harmless the City in all cases where claims of liability against the City arise out of acts or omissions of City which are derivative of the negligence or intentional acts or omissions of Supplier such as, and including but not limited to, the failure to supervise, the failure to warn, the failure to prevent such act or omission by Supplier and any other such source of liability.

b. The Supplier shall hold and save the City, its officers, employees, representatives and agents, and the City's design professional, if any, harmless from liability of any nature or kind, including costs and expenses, for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the City, unless otherwise specifically stipulated in the Technical Specifications.

2. Insurance.

A. Supplier shall provide and maintain in full force and effect during the life of this Agreement the following minimum amounts of insurance:

(1) Workers compensation insurance in accordance with applicable law.

(2) Commercial General Liability and Automobile Liability Insurance with limits not less than $1,500,000 Single and shall provide for the following: Liability for Premises, Operations, Completed Operations, Independent Contractors, and Contractual Liability.

(3) City of Duluth shall be named as an Additional Insured under the Commercial General Liability and Automobile Liability and Supplier will provide Certificate of Insurance evidencing such coverage with 30-days' notice of cancellation and 10-days' notice of non-renewal. The City of Duluth does not represent or guarantee that these types or limits of coverage are adequate to protect the Supplier's interests and liabilities.

B. Such insurance shall protect Supplier, its employees, agents and representatives from claims and damages including but not limited to personal injury and death and any act or

SAMPLE

failure to act by Supplier, its employees, agents and representatives in the negligent performance of work covered by this Agreement.

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

3. Amendments.

Any alterations, variations, modifications or waivers of terms of this Agreement shall be binding upon the City and Supplier only upon being reduced to writing and signed by a duly authorized representative of each party.

4. Assignment.

The Supplier shall not assign, transfer, convey or otherwise dispose of this Agreement, or its right to execute it, or its rights, duties, benefits, obligations, liabilities, or title or interest in or to it, or any part thereof, without the written consent of the City. The prohibition contained in this paragraph shall not be deemed to prevent the Supplier from conditionally assigning the Agreement to banks, trust companies, or other financial institutions for financing purposes. Contractor shall remain primarily responsible for all work performed by any Subcontractor or assignee.

5. Data and Confidentiality.

a. Records shall be maintained by Supplier in accordance with requirements prescribed by the City and with respect to all matters covered by this Agreement. Such records shall be maintained for a period of six (6) years after receipt of final payment under this Agreement.

b. Supplier shall be responsible for furnishing to the City records, data and information as the City may require pertaining to matters covered by this Agreement.

6. Laws, Rules and Regulations

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

7. Civil Rights Assurances

Consultant, as part of the consideration under this Agreement, does hereby covenant and agree that:

a. No person on the grounds of race, color, creed, religion, national origin, ancestry, age, sex, marital status, status with respect to public assistance, sexual orientation, and/or disability shall

SAMPLE

be excluded from any participation in, denied any benefits of, or otherwise subjected to discrimination with regard to the work to be done pursuant to this Agreement.

b. That all activities to be conducted pursuant to this Agreement shall be conducted in accordance with the Minnesota Human Rights Act of 1974, as amended (Chapter 363), Title 7 of the U.S. Code, and any regulations and executive orders which may be affected with regard thereto.

8. Applicable Law

This Agreement, together with all of its paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota.

9. Force Majeure

Neither party shall be liable for any failure of or delay in performance of its obligations under his Agreement to the extent such failure or delay is due to circumstances beyond its reasonable control, including, without limitation, acts of God, acts of a public enemy, fires, floods, wars, civil disturbances, sabotage, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes, acts of any governmental body (whether civil or military, foreign or domestic), failure or delay of third parties or governmental bodies from whom a party is obtaining or must obtain approvals, franchises or permits, or inability to obtain labor, materials, equipment, or transportation. Any such delays shall not be a breach of or failure to perform this Agreement or any part thereof and the date on which the party's obligations hereunder are due to be fulfilled shall be extended for a period equal to the time lost as a result of such delays.

10. Severability

In the event any provision herein shall be deemed invalid or unenforceable, the remaining provision shall continue in full force and effect and shall be binding upon the parties to this Agreement.

11. Entire Agreement

It is understood and agreed that the entire agreement of the parties including all exhibits is contained herein and that this Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof. Any amendment to this Agreement shall be in writing and shall be executed by the same parties who executed the original agreement or their successors in office.

12. Independent Contractor

a. It is agreed that nothing herein contained is intended or should be construed in any manner as

SAMPLE

creating or establishing the relationship of copartners between the parties hereto or as constituting Supplier as an agent, representative or employee of City for any purpose or in any manner whatsoever. The parties do not intend to create any third-party beneficiary of this Agreement. Supplier and its employees shall not be considered employees of City, and any and all claims that may or might arise under the Worker's Compensation Act of the State of Minnesota on behalf of Supplier's employees while so engaged, and any and all claims whatsoever on behalf of Supplier's employees arising out of employment shall in no way be the responsibility of City. Except for compensation provided in this Agreement, Supplier's employees shall not be entitled to any compensation or rights or benefits of any kind whatsoever from City, including without limitation, tenure rights, medical and hospital care, sick and vacation leave, Worker's Compensation, Unemployment Insurance, disability or severance pay and P.E.R.A. Further, City shall in no way be responsible to defend, indemnify or save harmless Supplier from liability or judgments arising out of intentional or negligent acts or omissions of Supplier or its employees while performing the work specified by this Agreement.

b. The parties do not intend by this Agreement to create a joint venture or joint enterprise, and expressly waive any right to claim such status in any dispute arising out of this Agreement.

c. Supplier expressly waives any right to claim any immunity provided for in Minnesota Statutes Chapter 466 or pursuant to the official immunity doctrine.

13. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, but all of which together shall constitute but one and the same instrument. Signatures to this Agreement transmitted by facsimile, by electronic mail in "portable document format" (".pdf"), or by any other electronic means which preserves the original graphic and pictorial appearance of the Agreement, shall have the same effect as physical delivery of the paper document bearing the original signature.

14. Contact Information

Prior to initiating deliveries, contact Rob Hurd at 218-626-5130 for authorization.

15. Notices

Any notice, demand or other communication under this Agreement by either party to the other shall be deemed to be sufficiently given or delivered if it is dispatched by regular U.S. Mail, registered mail, or certified mail, postage prepaid; or hand delivered to:

SAMPLE

In the Case of City:	City of Duluth Attn: 411 West 1st St. Duluth, Minnesota 55802
In the Case of Supplier:	COMPANY Attn: STREET ADDRESS. CITY, STATE, ZIP

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

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

CITY OF DULUTH

By:

_____

Mayor

Attest:

_____

City Clerk

Date Attested: _____

Countersigned:

_____

City Auditor Date

Approved as to form:

_____

City Attorney Date

SUPPLIER

By:

_____

Company Representative

Its:

_____

Title of Representative

Date:

SAMPLE