REQUEST FOR PROPOSAL
CITY OF DULUTH, MN

August 19, 2024

2025 STREET PRESERVATION PROJECT
Design Phase

Solicitation 24-99655

Project No.: 2194

Proposals Due: September 6, 2024 at 2:00 PM, Local Time

PROJECT OVERVIEW AND BACKGROUND

The City of Duluth is interested in retaining a consultant to provide design services thru bidding for the 2025 Street Preservation Project. If construction services are required, then the additional work will be contracted by amendment.

Route & Termini	Mileage	Cnst Type
London Rd, 21st to 26th Ave E	0.45	Mill & Overlay
Baylis St, Rice Lake Rd to High St	0.07	Mill & Overlay
High St, from Triggs to Baylis to Cliff Ave	0.18	Mill & Overlay
Cliff Ave, Rice Lake Rd to Plum St	0.32	Mill & Overlay
Plum St, Cliff Ave to Fern Ave	0.12	Mill & Overlay
Triggs Ave, High St to dead end Nly	0.1	Mill & Overlay
Parkwood Lane, from Haines Road to Twin Creeks Cir	0.54	Reclaim
Palisade Dr, from W Parkwood Lane to Parkwood Ln	0.69	Reclaim
Hanford Ave, from Twin Creeks Cir to Morris Thomas	0.27	Reclaim
Wildberry Cir, from Palisade Dr to cul de sac	0.08	Reclaim
Silver Fox Cir, from Palisade Dr to cul de sac	0.08	Reclaim
Twin Creeks Cir, from Parkwood to cul de sac	0.1	Reclaim
Talmade Cir, from Palisade Dr to cul de sac	0.08	Reclaim
Echo Lane, from Hanford to cul de sac	0.12	Reclaim
Palisade Circle, from Palisade Dr to cul de sac	0.07	Reclaim
Portage Drive, from Palisade Dr to Portage Circle	0.34	Reclaim
Portage Circle, from Portage Dr to cul de sac	0.05	Reclaim
Berkely Road, from Haines Rd to Palisade Dr	0.12	Reclaim
Asbury Dr, from Parkwood Ln to Morris Thomas Rd	0.25	Reclaim
Karl Ave, from Parkwood Ln to Palisade Dr	0.13	Reclaim
W Olive, Stanford to Arlington	0.25	Reclaim
Stanford, Terrace St to Marble St	0.5	Reclaim
1st St alley, between 22nd and 26th Ave W	0.36	Mill & Overlay
57th Ave W, storm work between Main St and Raleigh	0.18	Mill & Overlay
Falcon St, from 88th Ave W to dead end southerly	0.3	Mill & Overlay
86th Ave W, from Falcon St to Edward St	0.1	Mill & Overlay
Edward St, from 88th Ave W to 85th Ave W alley	0.23	Mill & Overlay
Clyde Ave, from TH23 to boat landing	0.32	Overlay
Anderson Road, from Trinity Rd to Central Entrance	0.97	Overlay
Observation Road, from Skyline Pkwy to Arlington	1.09	Overlay
Maple Grove Road, Swan Lake Rd to 562' E of Joshua Ave	0.66	Overlay

- Street construction work may include, but is not limited to: material removal, reclamation, milling, bituminous paving, storm water drainage improvements, ditching, partial curb and gutter replacement, replace or improve all pedestrian ramps, partial sidewalk replacement, turf establishment in all disturbed areas, and striping if present at this time – verify striping plans with City Traffic Engineer.

The project will be funded through City of Duluth Sales Tax Funding, levy funds, and storm water funds (all local funds).

The City of Duluth will provide the following:

- All available street and utility drawings from previous projects.
- Aerial photography and utility layers in ESRI shape files from the cities GIS system.
- Typical plan sheets from the 2023 Street Preservation Project (Attached). To provide plan layout and sheet format.
- Assistance in obtaining other related information in City files pertaining to the project if needed.
- List of known monuments on project to be preserved.
- List of known lead services, including which will be replaced by the city and those that will have restoration included in the drawings.

GENERAL PROJECT SCOPE

Consulting Engineering Services are expected to include all work necessary to provide final design including preliminary survey, plans and specifications, and bidding services.

All work shall be performed in accordance with the most recent version of the City Standard Construction Specifications and the Engineering Guidelines (available on the City of Duluth website), as well as current MNDOT specifications. Note that the city will be updating our construction specifications in 2024. The bid documents will need to incorporate this updated version.

SCOPE OF SERVICES

1. Initial Site Visit and Consultations

    a. The Consultant shall meet with City of Duluth representatives to review project scope and complexity, design criteria, related requirements, view existing conditions, gather data from the City engineering files and previously prepared reports. Additional consultations shall, where necessary, clarify the technical requirements and objectives of the contract and may be in the form of letters, emails and/or telephone conversations.

    b. The Consultant shall provide documentation of meetings and data provided.

    c. The Consultant shall ascertain the applicability of information provided, review data for completeness, and notify the City of any additional data required. It shall be the responsibility of the Consultant to determine, by site inspection procedures, the reliability of all the existing topographic survey. If information is found to be missing, the City will determine if this information should be collected as additional work.

    d. Consultant will need to prepare preliminary plan sheets to be used for site/street visits.

2. Public Participation

The Consultant should plan on five neighborhood meetings to coordinate and communicate the project with residents. These are in addition to any meetings held prior to the contract execution. These meetings will be held virtually.

3. Reconnaissance, Field Surveys & Geotechnical Exploration

   a. The Consultant shall perform survey as necessary for driveways, curbs, road and drainage work, including all manhole and valve locations. Consultant will also collect all survey information of existing ditches and yard slopes as needed for proposed sidewalks and ADA ramps including any retaining walls or v-curb needed and include in construction plans. The Consultant shall determine treatment for all monuments and their boxes that are disturbed with the project. Coordinate monument treatments with Project Engineer and City Surveyor and include in plan set.

   b. Review project sites (all Streets Listed) for physical conditions or lack of infrastructure that contribute to poor drainage and drainage issues- where they exist, work will be included in these plans to improve drainage. Coordinate any proposed storm water improvements with the city storm water engineer, Tom Johnson or Brad Scott. The consultant shall assume that selective catch basin adjustment, repairs and replacements will be required on all streets and shall allocate design effort to include such work in the Plans. Similarly, the consultant is responsible for reviewing the sites identified for reclamation in the preparation of their proposal and shall assume that existing storm pipes / trenches that show evidence of settling or heaving will require replacement and/or subgrade treatments as part of the project design. Other known storm sewer issues to be addressed by the consultant's design and provided in the consultant' design proposal include:

      a. Wildberry Circle
         i. Stormwater design and management in the Parkland neighborhood. Wildberry Circle has a severe icing problem in the winter, and needs storm water inlets and piping to intercept roadway and yard drainage. Project work will include providing new storm inlets to intercept roadway and yard drainage. New storm sewer will be designed to run from the cul de sac out to Palisade Drive to connect to existing storm sewer system.
      b. Palisade Drive
         i. New Storm Sewer will be provided on Palisade Drive to connect a roadway low spot, ponding/icing are near 2805 Palisade Drive to the existing stormwater flowage to the north.
      c. Stanford Ave and W Olive St
         i. Roadway pavement area will be narrowed to allow for re-establishment of a ditch line and provide drainage along this street segment. Anticipated roadway section is 10-ft lanes, 1-ft shoulders, and roadside ditches. The consultant shall provide a design profile for the reclamation section and shall survey the corridor to provide roadway sections at not less than 50-ft intervals, at all driveways, and intersections. Design cross sections and profile shall demonstrate and verify roadway grade, roadside and special ditch grades and configuration (v-ditch, flat ditch, varying inslopes/backslopes, etc.) as required, and driveway profiles for culverts and driveway grades. Driveway pipes and crossing culverts will required to control drainage.

d. Cliff Ave
    i. Work will entail urbanizing this two-block stretch of rural street from High Street to Rice Lake Road. Project work is anticipated to include new storm sewer, and new curb and gutter followed by milling and paving of the roadway pavement within the limits of the new curb and gutter. Curb and gutter and new storm sewer will also be provided on High Street between Cliff Avenue and Boulevard Place.
e. High Street
    i. The intersection of Baylis Street and High Street will be reduced in size to a standard City intersection standard. In general, the curb line on the east side of Baylis Street should be redesigned to narrow the intersection.
f. Plum St
    i. There is a gap between the curb sections on Plum Street between Boulevard Place and Fern Avenue. Provide new curb and gutter and storm sewer in this area to control drainage.
g. 57th Ave W
    i. There is a new stormwater biofiltration basin being constructed in Irving Park. There are some storm water improvements needed in 57th Ave W to detach and reroute the current storm water flow to this new biofiltration basin. The middle concrete panels will be removed and new mainline storm sewer will be designed to connect to a new outfall at Keene Creek. In general, the intent is to raise and upsize the storm sewer in this area to mitigate flooding issues and provide sufficient grade (elevation) to accommodate the proposed biofiltration basin at Irving Park. The City will provide a conceptual layout and sizing for the new storm sewer. The consultant will final design and incorporate the new storm sewer in the 57th Ave W right-of-way in the Plans. Once the storm work is completed, a bituminous section will be installed.
h. Driveways with bituminous in the concrete gutter sections shall not be perpetuated. New aprons shall be designed and included in the scope of the project.

c. Additional work on London Road will include restriping to a three-lane section, with one driving lane in each direction, a center turn lane, bike lanes, and parking where allowable. It will match the three-lane section from 21st Ave E to 10th Ave E. This work will require coordination with MNDOT at the 26th Ave E intersection, to match into their planned roundabout construction in 2026.

d. The pedestrian ramps will be improved to meet current ADA standards where sidewalks currently exist. The Consultant will be required to complete preliminary design for the curb ramps, with approval of the ramp type prior to final design by the project engineer. If the proposed ramp won't meet ADA standards, the Consultant shall submit to the city an ADA Compliance Checklist for that site in PDF format.

e. The Consultant shall be responsible for all permit applications that may be required of the City.

f. The Consultant shall do all necessary geotechnical exploration to determine/verify the existing section on the reclaim and mill/overlay sections. Assume for this proposal the total number of subsurface explorations is one (1) per 400 ft.

g. The construction type noted for each street segment provides initial guidance to the consultant on the project scope. However, this can be modified if different construction techniques are selected and the final project stays within the project budget.

h. The Consultant, as part of design services, shall arrange for and include the cost to televise all the storm water pipes. Include inspection of the all the storm structures as well as all the sanitary manholes on all of the roadway segments. The consultant shall provide a "Storm Video Inspection and Storm/Sanitary structures Assessment Report" that will include high resolution video logs, manhole/structure reports, and repair and/or replacement recommendations, as appropriate. Pipe and structure inspections and defect and feature coding shall be in accordance with NASSCO MACP / PACP Level 1 standards. The inspection and all forms, reports, photos, exhibits, diagrams, required viewer software, etc. shall be provided early in the design process so repairs and replacements can be assessed and incorporated in the project design to meet the City's overall project schedule.

i. All traffic control plans, incorporating detours, closures and other road work scheduled by others in the City of Duluth shall be reviewed and approved by the City Traffic Control Engineer.

4. Preliminary Design Recommendations and Costs

a. The Consultant shall analyze all appropriate data, and prepare recommendations and a p**reliminary construction cost estimate broken down per street prior to preparing plans and specifications.**
b. The consultant shall work with City staff to provide design and cost alternatives to assist the City in meeting the City's desired objectives and budget constraints.
c. Once the recommendations and cost estimate is prepared, meet with the project engineer to confirm direction.
d. Full design can commence following that meeting.

5. Plans and Specifications

a. The consultant shall prepare construction drawings. These drawings shall include all details, plans and specifications necessary for work as required by City. On past similar locally funded projects, an aerial photo of the project site with the work depicted on that aerial photo is sufficient for bidding. An SEQ with each project site in its own column will be necessary. This will allow a contingency if bids come in over budget and scope must be decreased. Note: The title sheet with the streets listed shall be in this order- Overlays, Mill and Overlays, and Reclaims. In each heading the streets shall be listed east to west. The SEQ shall list the streets in the same order. The Cost Estimates shall be in the same order and match the SEQ layout. See sample plan or examples provided by City

b. The specification preparation shall also include appropriate sections for bidding, bonding, agreements, general and special provisions, and other appropriate contract provisions as well. These sections shall be developed in accordance with the City standards, which shall be made available to the consultant.

c. The drawings shall include all necessary site maps, plans, elevations, sections, details, drainage profiles, and notes as needed or necessary to adequately show, explain or describe all features of the project. A full example plan set can be provided to interested consultants.

d. The contract drawing sequence shall follow the standard City of Duluth format.

6. Cost Estimate

A preliminary cost estimate (broken down by street in Excel and .pdf) is required prior to preparing plans and specifications (Section 4 above). Each plan review submittal also requires an updated cost estimate, for a total of five (5) submittals. The City will provide an example to consultant. Following the completion of the plans and specifications a quantity takeoff and a detailed itemized construction cost estimate (Estimate #4) for each individual segment of the project shall be provided. Cost Estimate #5 shall also be detailed and itemized and shall include any redlines or revisions by City.

7. Project Bidding

Upon completion of plans and specifications, the consultant shall provide all documents and services to provide for bidding and award for construction. The bid form shall be provided in CSV format without any extra or empty spaces between cells. The MnDOT item number, with the corresponding description, units and quantities provided in their own columns in capital letters, in numerical order. The consultant shall answer any questions brought up during bidding and attend a pre-bid conference. This design phase shall be considered complete upon award of the project following bidding.

PROJECT COMPLETION DATES

August 19, 2024	RFP Issued
September 6, 2024	Proposals Due
September 12, 2024	Selection of Consultant
Week of September 16-20, 2024	City Holds Resident Meeting
September 23, 2024	Council Approval to Award Contract
September 24, 2024	Notice to Proceed
October 29, 2024	Prelim Cost Est and meeting
November 1, 2024	Storm Sewer Video and Inspection Reports Submitted
November 26, 2024	30% Plan review and Cost Est 2
January 10, 2025	90% Plan review and Cost Est 3
January 31, 2025	Plans and Cost Est 4 submitted for final City review
February 14, 2025	Final Plan, Specification, Cost Estimate 5 and SWPPP delivered to City
February 20, 2025	Advertise for bids
March 11, 2025	Receive bids

QUALIFICATION PROPOSAL CONTENTS

The proposal shall be submitted in the following format broken into the 5 sections identified below. The proposal shall be limited to 10 pages plus a cover letter (The page limit includes all resumes. Proposals that exceed this limit will not be reviewed. Dividers and covers are not included in the page limitation). The proposal format shall be as follows:

1. Goals and Objectives
   A restatement of the goals and objectives and the project tasks to demonstrate the responder's view and understanding of the project.

2. Knowledge, Experience, and Personnel
   An outline of the responder's background and experience with similar projects. Project descriptions shall include a list key staff and their role. Include a description of the firm's knowledge of City of Duluth street and utility standards. Within the experience, the consultant should demonstrate and provide proof of competency in the following areas:

   - Road Design and Construction, including knowledge of reclamation and milling projects
   - Planning for effective Public Participation
   - Cost estimating and cost control
   - Project management experience and dealing effectively with residents
   - Erosion/Stormwater management for design of SWPPP for the project

   Identify personnel to conduct the project and detail their training, certifications and licenses, and work experience. Identify how personnel proposed for this project were involved with the projects listed as experience. Identify a professional engineer registered in the State of Minnesota who will oversee the overall project. No change in personnel assigned to the project will be permitted without approval of the City.

3. Work Plan

   Include a detailed work plan identifying the work tasks to be accomplished and the budget hours to be expended on each task and subtask for roadway design. The work plan shall be in spreadsheet format and shall list each task and the number of hours for each staff person on that task. The work plan shall also identify the deliverables at key milestones in the project as well as any other services to be provided by the City. Do NOT include any costs in the work plan.

4. Work Schedule
   An anticipated work schedule shall also be provided. The work schedule shall identify all key milestone dates.

5. References
   A listing of names, addresses and telephone numbers of at least three (3) references for whom the respondent has performed similar street and utility construction services.

COST PROPOSAL CONTENTS

Provide, in separate envelope, one copy of the cost proposal, clearly marked on the outside "Cost Proposal" along with the responder's official business name and address. Terms of the proposal as stated must be valid for the project length of time.

The consultant must include a not to exceed total project cost, as well as subtotals for design services and bidding and any sub consultant fees. The cost proposal shall include all of the following:

- A cover/transmittal letter
- A breakdown of the hours by task for each employee. This shall be in the same format as the work plan in the Qualifications proposal with the addition of costs.
- Hourly rates for each specific employee proposed. (not general rates by category)
- Identification of anticipated direct expenses and rates for miscellaneous charges such as mileage and copies.
- Identification of any assumption made while developing this cost proposal.
- Identification of any cost information related to additional services or tasks. Include this in the cost proposal, but identify it as additional costs and do not make it part of the total project cost.
- The Consultant must have the cost proposal/cover letter/transmittal signed in ink by an authorized member of the firm.
- The consultant must not include any cost information within the body of the RFP qualification proposal response.

SELECTION

The proposals will be reviewed by City Staff. The intent of the selection process is to review proposals and make an award based upon qualifications as described herein. A 100-point scale will be used to create the final evaluation recommendations. The factors and weighting on which proposals will be judged are:

	Item	Percent
1	Goals and Objectives	10%
2	Knowledge, Experience, and Personnel	20%
3	Work Plan	20%
4	Work Schedule	20%
5	Project costs/fees	30%

Proposals will be evaluated on a best value basis with 70% qualifications and 30% cost consideration. The review committee will not open the cost proposal until after the qualification points have been awarded.

SUBMITTAL DATE

Submit a flash drive, plus the original and five (5) copies in an envelope marked, 2025 Street Preservation Project, Project Number 2194 by 2:00PM CDT, September 5, 2024 to:

Patti Stalvig, Purchasing Agent
City Purchasing
Room 100 City Hall

Duluth, MN 55802

CONTACT

All questions concerning the project shall be directed to:

Patrick Loomis, PE
ploomis@duluthmn.gov
City of Duluth - Engineering Division
411 W. 1st Street, Room 240 City Hall
Duluth, Minnesota 55802-1191
(218) 730-5094

LIMITATIONS

This Request for Proposal does not commit the City of Duluth to award a contract or pay costs incurred in the preparation of the proposal, or to procure a contract for services or supplies.

The Proposal shall not in any way include any restrictions on the City of Duluth. The Consultant shall NOT provide proposed contract language.

The City of Duluth reserves the right to conduct interviews of any or all proposers if deeded necessary by the evaluation committee.

The City of Duluth specifically reserves the right to accept or reject any or all proposals, to negotiate with any qualified source, to cancel in part or in its entirety the Request for Proposal, to waive any requirements, to investigate the qualifications of any proposal, to obtain new proposals, or proceed to have the service provided in any way as necessary to serve the best interests of the City of Duluth.

The selected consultant must sign the City of Duluth standard Professional Engineering Services Agreement. Any questions concerning this agreement should be asked PRIOR to proposal submittal. These questions should be directed to Howard Smith in the City Engineering Office.

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

Prior to entering into an agreement with the city, the consultant shall furnish proof that it has all legal requirements for transacting business in the State of Minnesota.

APPENDICIES

Appendix A – Proposal Cover Sheet
Appendix B – Site Maps
Appendix C – Agreement Template

APPENDIX A – PROPOSAL COVER SHEET
CITY OF DULUTH
RFP 24-99655

APPENDIX A - SUBMISSION COVER SHEET
CITY OF DULUTH
RFP# 24-99655
Design Services for 2025 Street Preservation Project

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

APPENDIX B – SITE MAPS
CITY OF DULUTH
RFP 24-99655



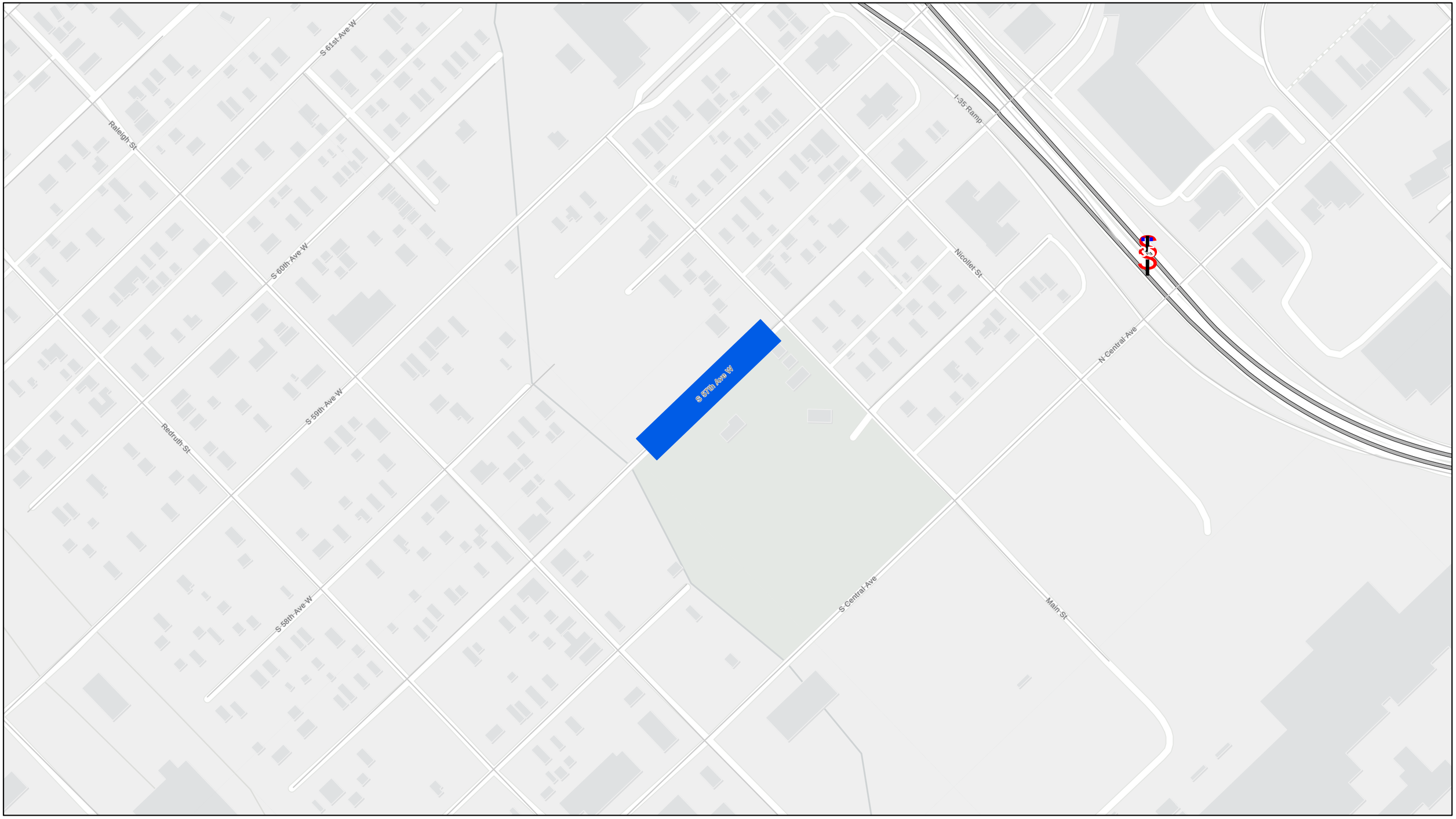
2025 Sales Tax Project (Proj#2194)

2025 Transportation Sales Tax Project

0 0.07 0.15 0.3 Miles

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Date Created: 8/19/2024



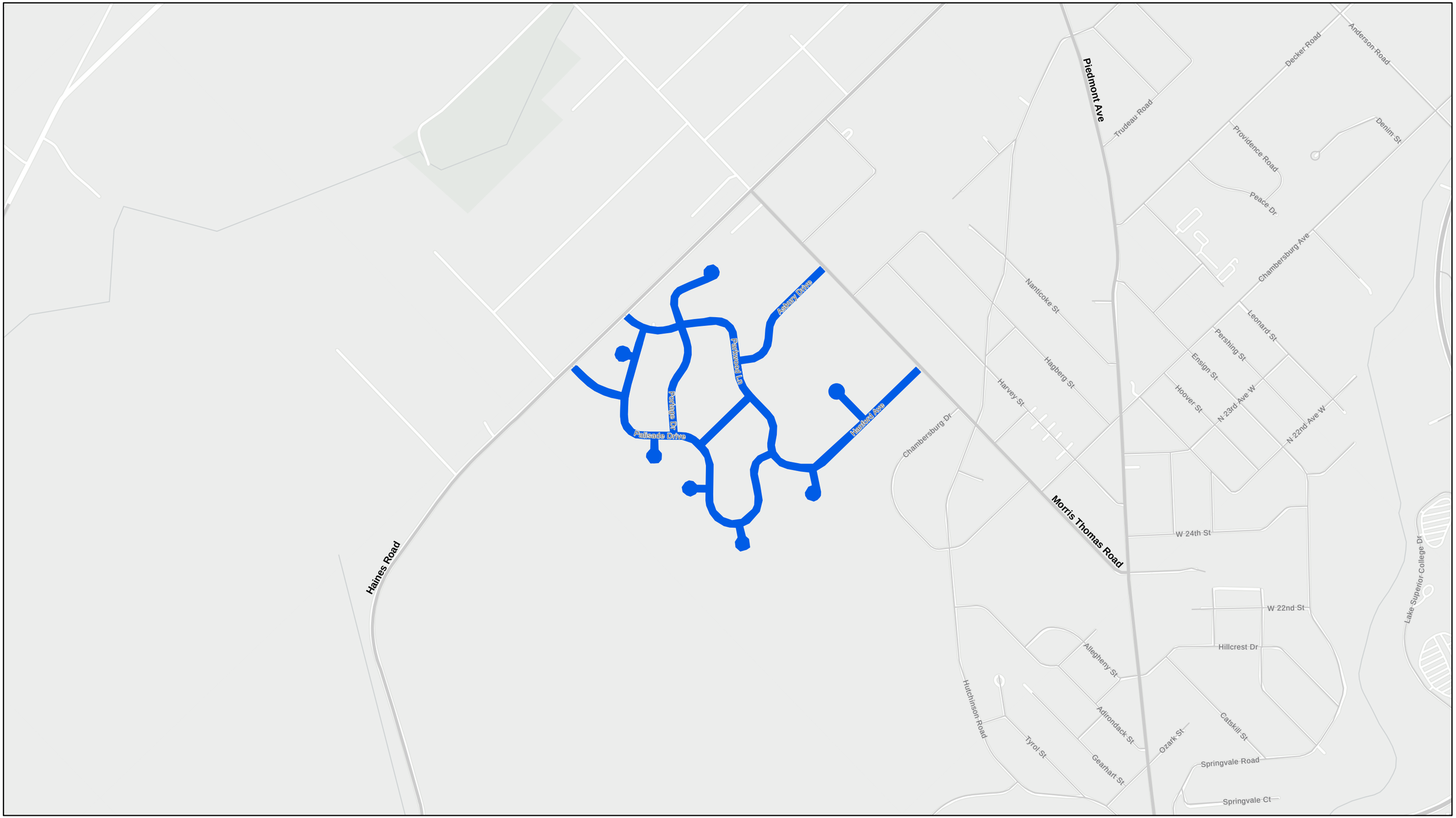
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2025 Transportation Sales Tax Project

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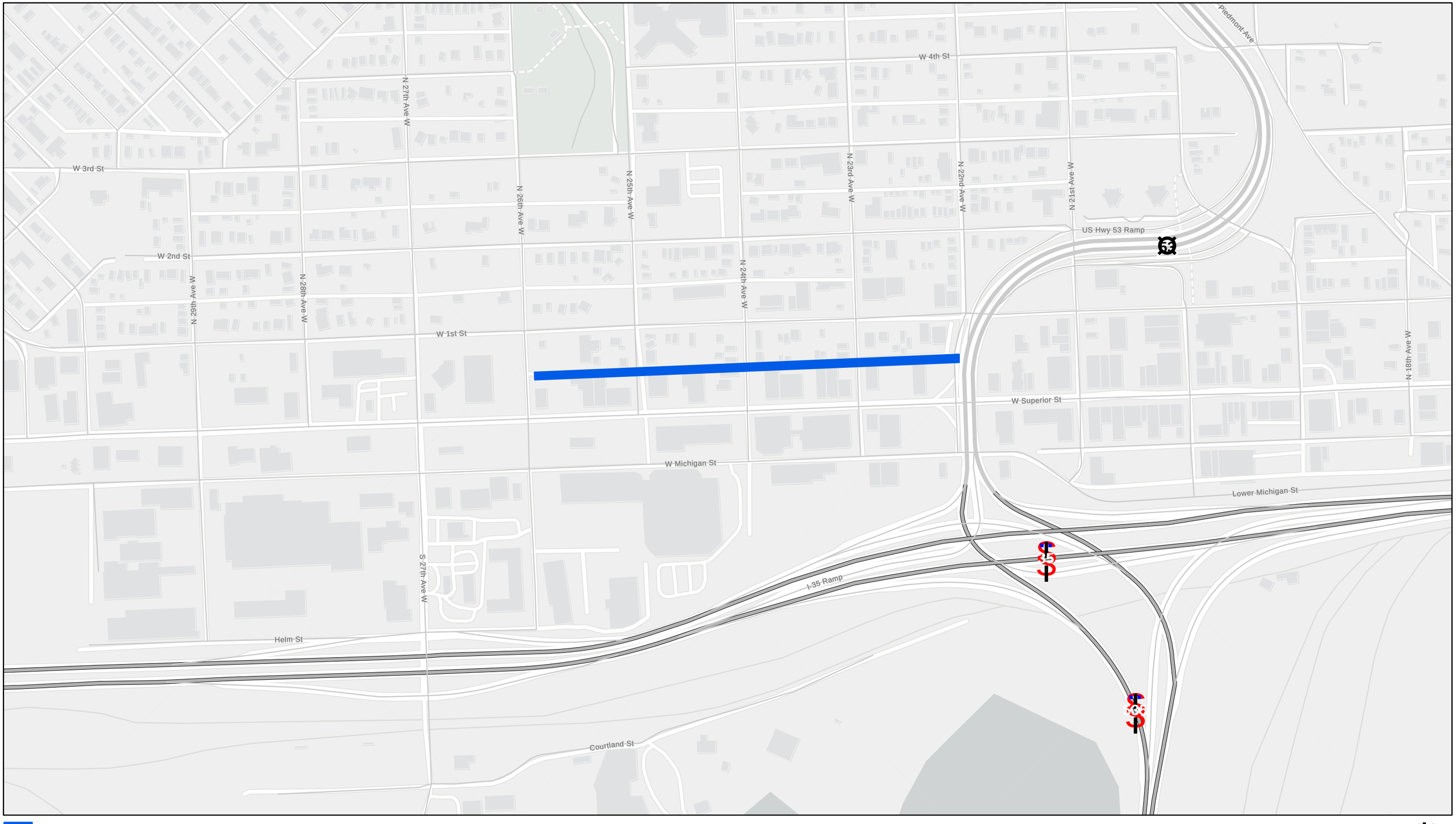
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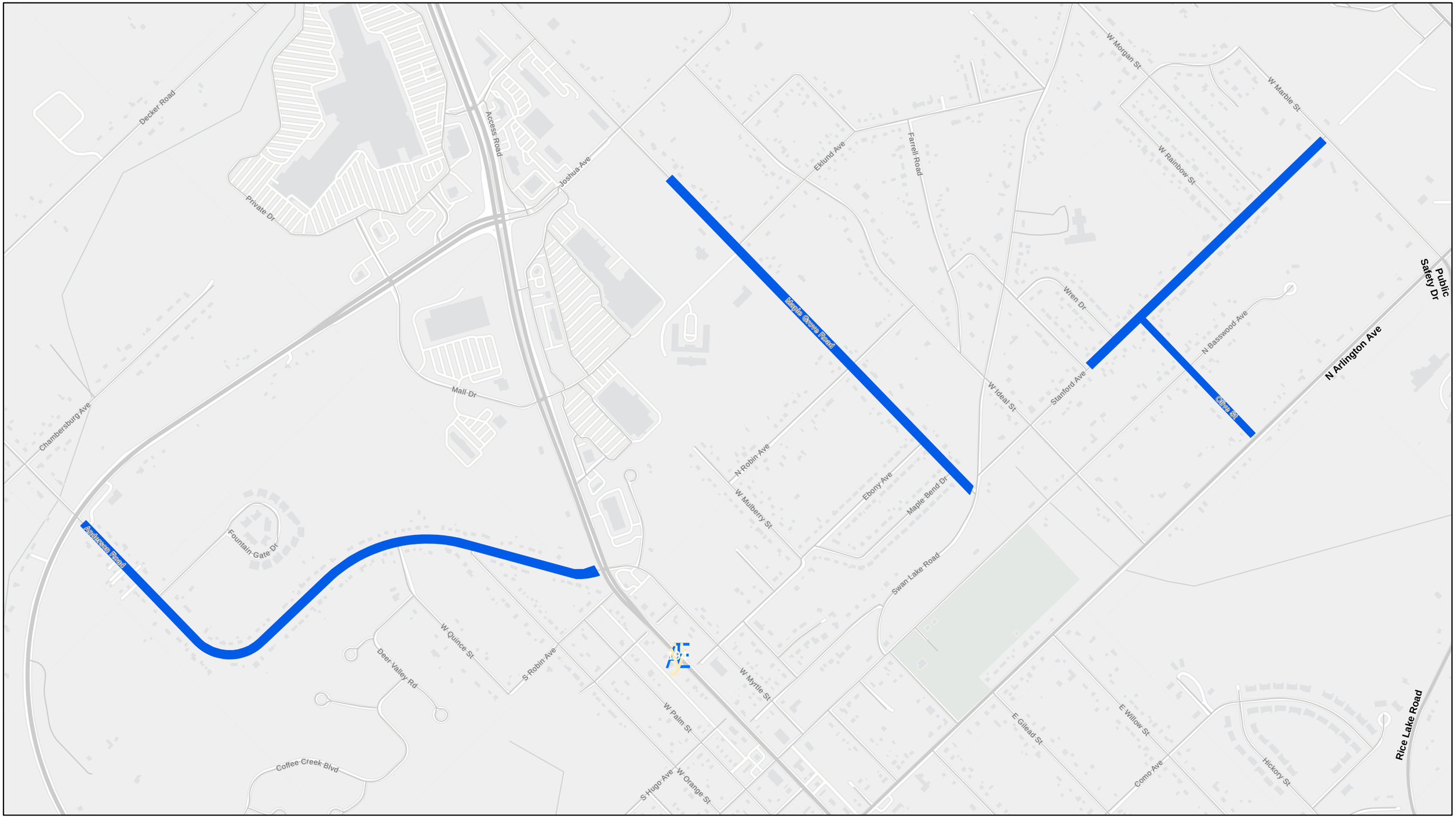
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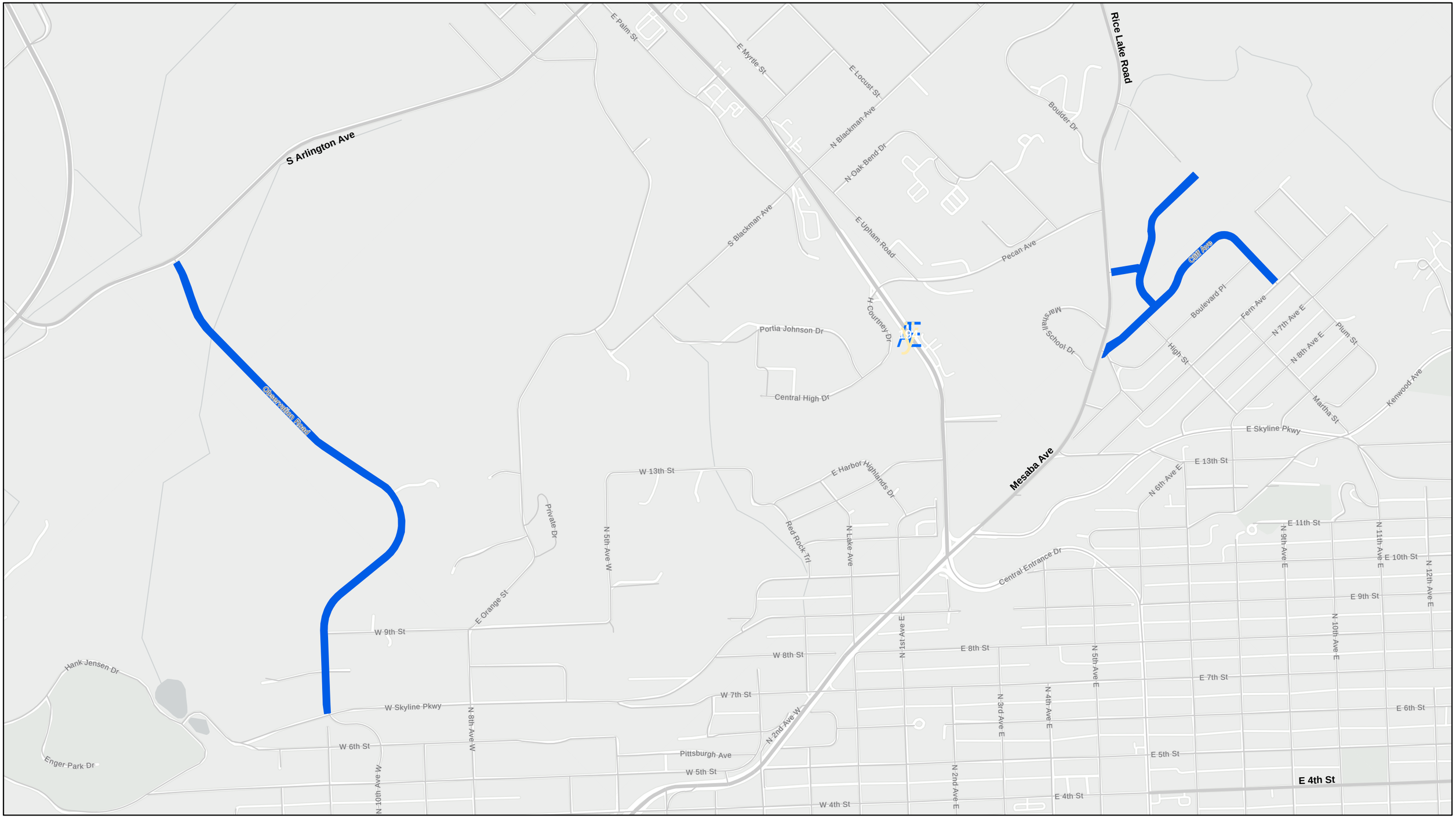
2025 Sales Tax Project (Proj#2194)

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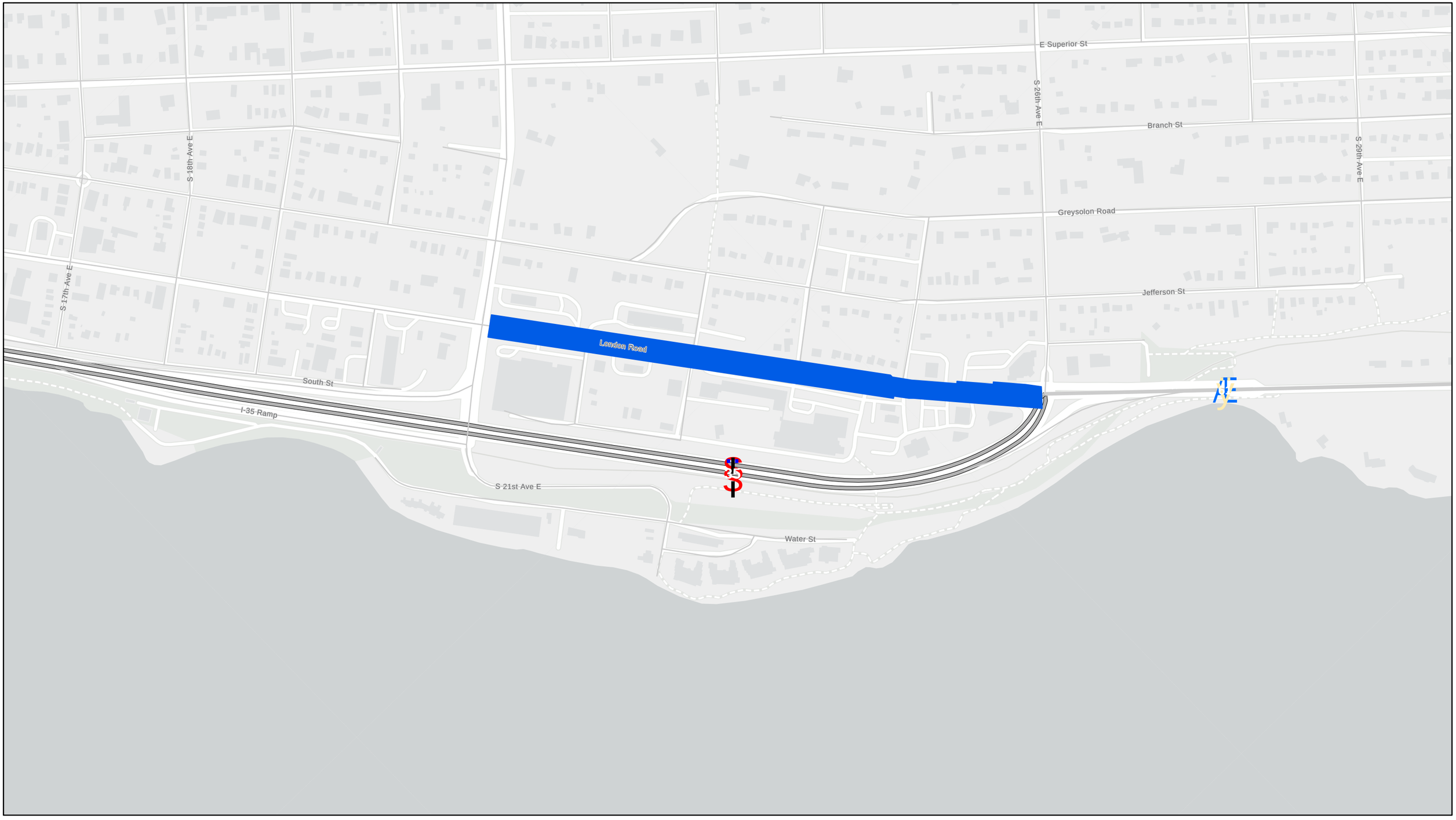
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2025 Transportation Sales Tax Project

Miles
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2025 Sales Tax Project (Proj#2194)

2025 Transportation Sales Tax Project

0 0.04 0.07 0.14 Miles

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Date Created: 8/19/2024

APPENDIX C – AGREEMENT TEMPLATE
CITY OF DULUTH
RFP 24-99655

PROFESSIONAL ENGINEERING SERVICES AGREEMENT

Click or tap here to enter text. & CITY OF DULUTH

THIS AGREEMENT, effective as of the date of attestation by the City Clerk, is made by and between the City of Duluth, Minnesota hereinafter referred to as the "City" and:

Name: Click or tap here to enter text.
Address: Click or tap here to enter text.

hereinafter referred to as the "Engineer", in consideration of the mutual promises contained herein.

Payments as described in Section V shall be made from Funding Click or tap here to enter text.; Project # Click or tap here to enter text.; and Resolution No. Click or tap here to enter text., passed on Click or tap here to enter text..

The professional engineering services obtained by the City under this agreement concern the following described project hereinafter referred to as the "Project":

Project Number: Click or tap here to enter text.
Project Name: Click or tap here to enter text.
Project Description: Click or tap here to enter text.

The professional engineering services to be provided under this agreement consist of those phases A through G checked below. A more particular description of each phase is contained in Section II, "Basic Services", of the agreement.

	Phase	Description
☐	A.	Study and Report Phase
☐	B.	Preliminary Survey Phase
☐	C.	Preliminary Design Phase
☐	D.	Final Design Phase
☐	E.	Bidding Phase
☐	F.	Construction Survey and Layout Phase
☐	G.	Construction Administration and Inspection Phase

SECTION I. GENERAL

A. ENGINEER

The Engineer shall provide professional engineering services for the City in all phases of the Project to which this agreement applies, serve as the City's professional engineering representative for the Project as set forth below and shall give professional engineering consultation and advice to the City during the performance of services hereunder. All services provided hereunder shall be performed by the Engineer in accordance with generally accepted Engineering standards to the satisfaction of the City.

B. NOTICE TO PROCEED

The Engineer shall only begin performance of each Phase of work required hereunder upon receipt of a written Notice to Proceed by City representative with that Phase.

TEMPLATE

C. TIME

The Engineer shall begin work on each successive phase promptly after receipt of the Notice to Proceed and shall devote such personnel and materials to the Project so as to complete each phase in an expeditious manner within the time limits set forth in Section II. Time is of the essence to this agreement.

D. CITY'S REPRESENTATIVE

The City's representative to the Engineer shall be the City Engineer or his or her designees assigned in writing.

E. ENGINEERING GUIDELINES

All work performed as part of this project shall conform to the most current edition of the Engineering Guidelines for Professional Engineering Services and Developments as approved by the City Engineer and on file in the office of the City Engineer.

F. SUBCONSULTANTS

Engineer may contract for the services of sub-consultants to assist Engineer in the performance of the services to be provided by Engineer hereunder but the selection of any sub-consultant to perform such services shall be subject to the prior written approval of the City Engineer. Engineer shall remain responsible for all aspects of any services provided by such sub-consultants to City under this Agreement. City shall reimburse Engineer for sub-consultant services under the categories of services to be provided by Engineer under Phases A through G, as applicable.

SECTION II. BASIC SERVICES

A. STUDY AND REPORT PHASE

☐ Included in this Agreement
☐ Not included in this Agreement

The Engineer shall:

1) <u>City's Requirements</u>

Review available data and consult with the City to clarify and define the City's requirements for the Project.

2) <u>Advise Regarding Additional Data</u>

Advise the City as to the necessity of the City's providing or obtaining from others data or services in order to evaluate or complete the Project and, if directed by the City's representative, act on behalf of the City in obtaining other data or services.

3) <u>Technical Analysis</u>

Provide analysis of the City's needs, planning surveys, site evaluations, and comparative studies of prospective sites and solutions.

4) <u>Economic Analysis</u>

Provide a general economic analysis of various alternatives based on economic parameters and assumptions provided by the City.

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5) Report Preparation

Prepare a report containing schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate clearly the considerations involved and the alternative solutions available to the City and setting forth the Engineer's findings and recommendations with opinions of probable total costs for the Project, including construction cost, contingencies, allowances for charges of all professionals and consultants, allowances for the cost of land and rights-of-way, compensation for or damages to properties and interest and financing charges (all of which are hereinafter called "Project Costs").

6) Report Presentation

Furnish three copies of the report and present and review the report in person with the City as the City Representative shall direct.

7) Supplementary Duties

The duties and responsibilities of Engineer during the Study and Report Phase shall also include any additional duties and responsibilities to be provided pursuant to the Engineer's proposal attached as Exhibit B.

8) Completion Time

The Study and Report Phase shall be completed and report submitted by Click or tap here to enter text..

B. PRELIMINARY SURVEY PHASE

☐ Included in this Agreement
☐ Not included in this Agreement

After written authorization by the City's representative to proceed with the preliminary survey phase, the Engineer shall:

1) General

Perform topographic survey as necessary to prepare the design and provide Construction Survey and Layout as described in Section II.F

2) Boundary Survey

Perform boundary survey if checked.

3) Document Presentation

Furnish a CADD file of the survey base map to the City. Files shall be in the software specified in the Engineering Guidelines for Professional Engineering Services and Developments described in Section I.E.

4) Supplementary Duties

The duties-responsibilities of the Engineer during the preliminary survey phase shall also include any additional duties and responsibilities to be provided pursuant to the Engineer's proposal attached as Exhibit B.

5) Completion Time

The preliminary survey phase shall be completed and submitted by Click or tap here to enter text..

TEMPLATE

C. PRELIMINARY DESIGN PHASE

☐ Included in this Agreement
☐ Not included in this Agreement

After written authorization by the City's Representative to proceed with the Preliminary Design Phase, the Engineer shall:

1) Preliminary Design Documents
Prepare preliminary design documents consisting of final design criteria, preliminary drawings and outline specifications.

2) Revised Project Costs
Based on the information contained in the preliminary design documents, submit a revised opinion of probable Project costs.

3) Preparation of Grants; Environmental Statements
Preparation of applications and supporting documents for governmental grants, loans or advances in connection with the Project, preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any such statements and documentation prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

4) Renderings and Models
Providing renderings or models for the City's use.

5) Economic Analysis
Investigations involving detailed consideration of operations, maintenance and overhead expenses; providing value engineering during the course of design; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing and assisting the City in obtaining licensing; detailed quantity surveys of material, equipment and labor; and audits of inventories required in connection with construction performed by the City.

6) Document Presentation
Furnish three copies of the above preliminary design documents and present and review such documents in person with the City as the City Engineer may direct.

7) Supplementary Duties
The duties and responsibilities of the Engineer during the Preliminary Design Phase shall also include any additional duties and responsibilities to be provided pursuant to the Engineer's proposal attached as Exhibit B.

8) Completion Time
The Preliminary Design Phase shall be completed and report or plan submitted by Click or tap here to enter text..

D. FINAL DESIGN PHASE

☐ Included in this Agreement

TEMPLATE

☐ Not included in this Agreement

1) Drawings and Specifications

On the basis of the accepted preliminary design documents and the revised opinion of probable Project costs, prepare for incorporation in the contract documents Construction Plans to show the character and extent of the Project and specifications.

2) Approvals of Governmental Entities

Furnish to the City such documents and design data as may be required for, and prepare the required documents so that the City may apply for approvals and permits of such governmental authorities as have jurisdiction over design criteria applicable to the Project, and assist in obtaining such approvals by participating in submissions to and negotiations with appropriate authorities.

3) Adjusted Project Costs

Advise the City of any adjustments to the latest opinion of probable Project costs, identify cause of change and furnish a revised opinion of probable Project cost based on the drawings and specifications.

4) Contract Document Preparation

Prepare final plans and specifications for the Project, which shall include incorporation of plans and specifications prepared by subconsultants. Engineer shall assist in the preparation of contract documents. Engineer shall prepare all necessary project/plan review forms checklists, labor compliance requests, wage determination requests, bidding documents and other forms to assist the City with procuring Bids. Engineer shall review all plans and specifications and supporting documentation and resolve any inconsistencies in said documents being incorporated into the Contract prior to bid. To the extent possible, the Engineer will follow the document format supplied by the City and use the standard terms and conditions supplied by the City in preparation of these documents.

5) Real Estate Acquisition: Legal Description

Based on preliminary design documents, furnish a legal description and recordable reproducible 8-1/2" X 11" plat of each parcel of real estate in which the City must acquire an interest in order to proceed with construction of the Project.

6) Document Presentation

Furnish three copies of the above documents and present and review them in person with the City.

7) Supplementary Duties

The duties and responsibilities of the Engineer during the Final Design Phase shall also include any additional duties and responsibilities to be provided pursuant to the Engineer's proposal attached as Exhibit B.

8) Completion Time

The Final Design Phase shall be completed and contract documents submitted by Click or tap here to enter text..

E. BIDDING PHASE

☐ Included in this Agreement

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☐ Not included in this Agreement

The Engineer shall:

1) Assist in Bidding
Assist the City in obtaining bids for each separate City contract for construction, materials, equipment and services.

2) Advise Regarding Contractors and Subcontractors
Consult with and advise the City as to the acceptability of subcontractors and other persons and organizations proposed by the City's contractor(s) (hereinafter called "Contractor(s)" for those portions of the work as to which such acceptability is required by the bidding documents).

3) Consult Regarding Substitutes
Consult with and advise the City as to the acceptability of substitute materials and equipment proposed by the contractor(s) when substitution prior to the award of contracts is allowed by the bidding documents.

4) Evaluation of Bids
Assist the City in evaluating bids or proposals and in assembling and awarding contracts.

5) Supplementary Duties
The duties and responsibilities of the Engineer during the Bidding Phase shall also include any additional duties and responsibilities to be provided pursuant to the Engineer's proposal attached as Exhibit B.

6) Completion Time
The bidding phase shall be completed by Click or tap here to enter text..

F. CONSTRUCTION SURVEY AND LAYOUT PHASE

☐ Included in this Agreement
☐ Not included in this Agreement

1) General
This phase of work may or may not be performed in conjunction with Phase G, "Construction Administration and Inspection Phase" of this agreement. Inclusion of this phase in the agreement does not imply that services identified under Phase G are to be provided unless specifically indicated in this agreement.

2) Duties
The Engineer shall provide horizontal and vertical control line and grade to enable construction of the improvement as depicted in the Project plans. The number of control points to be established by the Engineer shall be sufficient to permit the construction contractor to construct the improvement within the construction tolerances established in the Project specifications. In addition, the number of control points shall be consistent with standard engineering practice.

3) Accuracy
The Engineer shall provide the horizontal and vertical control points within the same measurement tolerances as the construction tolerances established in the Project specifications. The Engineer shall be responsible for the accuracy of the control points which are established.

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The Engineer shall be responsible for costs which may result from errors in placement of control points. The Engineer shall be required to establish control points at Engineer's costs only one time. Control points which are lost, damaged, removed or otherwise moved by the Contractor or others shall be promptly replaced by the Engineer and costs for such replacement shall be computed on a time and materials basis, and reimbursed by the City. The Engineer shall take all reasonable and customary actions to protect the control points established by the Engineer.

4) Supplementary Duties

The duties and responsibilities of the Engineer during the construction survey and layout phase shall also include any additional duties and responsibilities to be provided pursuant to the Engineer's proposal attached as Exhibit B.

5) Completion Time

The construction survey & layout phase shall be completed by Click or tap here to enter text..

G. CONSTRUCTION ADMINISTRATION AND INSPECTION PHASE

☐ Included in this Agreement
☐ Not included in this Agreement

1) General Duties

Consult with and advise the City and act as its representative as provided herein and in the General Conditions of the construction contract for the Project. This phase of the work may or may not be performed in conjunction with Phase F "Construction Survey and Layout Phase" of this agreement. Inclusion of this phase in the agreement does not imply that services identified under Phase F are to be provided unless specifically indicated in this agreement.

2) Construction Inspection and Reporting

Make visits to the site with sufficient frequency at the various stages of construction to observe as an experienced and qualified design professional the progress and quality of the executed work of the contractor(s) and to ensure that such work is proceeding in accordance with the contract documents. During such visits and on the basis of on-site observations, the Engineer shall keep the City informed of the progress of the work, shall endeavor to guard the City against defects and deficiencies in such work and may disapprove or reject work failing to conform to the contract documents.

3) Warranty Inspection

Eleven months following construction completion, conduct an inspection to document any items to be repaired by the contractor under the conditions of the construction contract warranty. Submit work to be corrected to the Contractor and the City.

4) Review of Technical and Procedural Aspects

Review and approve (or take other appropriate action in respect to Shop Drawings), the results of tests and inspections and other data which each contractor is required to submit, determine the acceptability of substitute materials and equipment proposed by the contractor(s), and receive and review (for general content as required by the specifications) maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are to be assembled by the contractor(s).

5) Contract Documents

Receive from each contractor and review for compliance with contract documents all required

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document submissions including but not limited to performance and payment bonds, certificates of insurance report forms required by any City, State or Federal law or rule or regulation and submit the forms to the City for final approval.

6) Conferences and Meetings

Attend meetings with the contractor, such as preconstruction conferences, progress meetings, job conferences and other Project-related meetings, and prepare and circulate copies of the minutes thereof including to the City.

7) Records

a) Maintain orderly files for correspondence, reports of job conferences, shop drawings and samples, reproductions of original contract documents, including all work directive changes, addenda, change orders, field orders, additional drawings issued subsequent to the execution of the contract, the Engineer's clarifications and interpretations of the contract documents, progress reports, and other Project-related documents.

b) Keep a diary or log book, recording the contractor's hours on the job site, weather conditions, data relative to questions of work directive changes, change orders, or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail, as in the case of observing test procedures and send copies to the City. Take multiple photographs of the Work and keep a log and file of the photos. Specifically maintain records of acceptance and rejection of materials and workmanship.

c) Record names, addresses and telephone numbers of all the contractors, subcontractors, and major suppliers of materials and equipment.

8) Reports

a) Furnish the City periodic reports, as required, on progress of the work and of the contractor's compliance with the progress schedule and schedule of shop drawings and sample submittals.

b) Consult with the City, in advance of scheduled major tests, inspections, or start of important phases of the Work.

c) Draft proposed change orders and work directive changes, obtaining back-up material from the contractor, and make recommendations to the City regarding change orders, work directive changes and field orders.

d) Report immediately to the City upon the occurrence of any accident.

9) Contract Interpretation, Review of Quality of Work

Issue all instruction of the City to the contractor(s); issue necessary interpretations and clarifications of the contract Documents and in connection therewith prepare change orders as required, subject to the City's approval; have authority, as the City's representative, to require special inspection or testing of the work; act as initial interpreter of the requirements of the contract documents and judge of the acceptability of the work there under and make decisions on all claims of the contractor(s) relating to the acceptability of the work or the interpretation of the requirements of the contract documents pertaining to the execution and progress of the work.

10) Change Orders and Revisions

Prepare change orders to reflect changes in the Project requested or approved by the City,

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evaluate substitutions proposed by the contractor(s) and make revisions to drawings and specifications occasioned thereby, and provide any additional services necessary as the result of significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.

11) Review of Applications for Payment

Based on the Engineer's on-site observations as an experienced and qualified design professional and on review of applications for payment and the accompanying data and schedules, determine the amount owing to the contractor(s) and recommend in writing payments to the contractor(s) in such amounts; such recommendations of payment will constitute a representation to the City, based on such observations and review, that the work has progressed to the point indicated, that, to the best of the Engineer's knowledge, information and belief, the quality of such work is in accordance with the contract documents (subject to an evaluation of such work as a functioning Project upon substantial completion, to the results of any subsequent tests called for in the contract documents, and to any qualifications stated in his recommendation), and that payment of the amount recommended is due the contractor(s).

12) Determination of Substantial Completion

Conduct an inspection to determine if the Project is substantially complete and a final inspection to determine if the work has been completed in accordance with the contract documents and if each contractor has fulfilled all of his obligations there under so that the Engineer may recommend, in writing, final payment to each contractor and may give written notice to the City and the contractor(s) that the work is acceptable (subject to any conditions therein expressed).

13) Authority and Responsibility

The Engineer shall not guarantee the work of any contractor or subcontractor, shall have no supervision or control as to the work or persons doing the work, shall not have charge of the work, shall not be responsible for safety in, on, or about the job-site or have any control of the safety or adequacy of any equipment, building component, scaffolding, supports, forms or other work aids. If the Engineer determines that there are deficiencies in materials or workmanship on the Project, or otherwise deems it to be in the best interest of the City to do so, the Engineer shall be responsible to stop any contractor or subcontractor from performing work on the Project, until conditions giving rise to this need, therefore, are rectified.

14) Engineer Not Responsible for Acts of Contractor

The Engineer shall not be responsible for the supervision or control of the acts or omissions or construction means, methods or techniques of any contractor, or subcontractor, or any of the contractor(s)' or subcontractors' or employees or any other person (except the Engineer's own employees and agents) at the site or otherwise performing any of the contractor(s) work; however, nothing contained in this paragraph shall be construed to release the Engineer from liability for failure to properly perform duties undertaken by him in these contract documents or this agreement.

15) Preparation of Record Drawings

The Engineer shall prepare a set of record drawings in accordance with the Engineering Guidelines for Professional Engineering Services and Development described in Section I.E.

16) Manuals

The Engineer shall furnish operating and maintenance manuals; protracted or extensive assistance in the utilization of any equipment or system (such as initial start-up, testing, and adjusting and balancing); and training personnel for operation and maintenance.

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17) Supplementary Duties

The duties and responsibilities of the Engineer during the construction administration and inspection phase shall also include any additional duties and responsibilities to be provided pursuant to the Engineer's proposal attached as Exhibit B.

18) Completion Time

The construction administration and inspection phase shall be completed by Click or tap here to enter text..

SECTION III. CITY'S RESPONSIBILITIES

A. FURNISH REQUIREMENTS AND LIMITATIONS

Provide all criteria and full information as to the City's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expendability, economic parameters and any budgetary limitations; and furnish copies of all design and construction standards which the City will require to be included in the Drawings and Specifications.

B. FURNISH INFORMATION

Assist the Engineer by placing at the Engineer's disposal all available information reasonably known to and in possession of the City.

C. REVIEW DOCUMENTS

Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by the Engineer.

D. OBTAIN APPROVALS AND PERMITS

Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.

E. ACCOUNTING, LEGAL AND INSURANCE SERVICE

Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such auditing service as the City may require to ascertain how or for what purpose any contractor has used the monies paid to him under the construction contract, and such inspection services as the City may require to ascertain that the contractor(s) are complying with any law, rule or regulation applicable to their performance of the work except as otherwise provided in Section II.

F. NOTIFY THE ENGINEER OF DEFECTS OR DEVELOPMENT

Give prompt written notice to the Engineer whenever the City observes or otherwise becomes aware of any development that affects the scope or timing of the Engineer's services, or any defect in the work of the contractor(s).

G. COSTS OF THE CITY'S RESPONSIBILITIES

Bear all costs incidental to compliance with the requirements of this Section III.

SECTION IV. GENERAL CONSIDERATIONS

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A. SUCCESSORS AND ASSIGNS

The City and the Engineer each binds their respective partners, successors, executors, administrators and assigns to the other party of this agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this agreement; the Engineer shall not assign, sublet, or transfer their respective interests in this agreement without the written consent of the City. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the City and the Engineer.

B. OWNERSHIP OF DOCUMENTS

All drawings, specifications, reports, records, and other work product developed by the Engineer in connection with this Project shall remain the property of the City whether the Project is completed or not. Reuse of any of the work product of the Engineer by the City on extensions of this Project or any other Project without written permission of the Engineer shall be at the City's risk and the City agrees to defend, indemnify and hold harmless the Engineer from all damages and costs including attorney fees arising out of such reuse by the City or others acting through the City.

C. ESTIMATES OF COST (COST OPINION)

Estimates of construction cost provided are to be made on the basis of the Engineer's experience, qualifications and the best of their professional judgment, but the Engineer does not guarantee the accuracy of such estimates as compared to the contractor's bids or the Project construction cost.

D. INSURANCE

1) Engineer shall provide the following minimum amounts of insurance from insurance companies authorized to do business in the state of Minnesota:

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

b) Commercial General and Automobile Liability Insurance with limits not less than **$1,500,000** Single Limit shall be in a company approved by the city of Duluth; and shall provide for the following: Liability for Premises, Operations, Completed Operations, Independent Contractors, and Contractual Liability. Umbrella coverage with a "form following" provision may make up the difference between the commercial general and auto liability coverage amounts and the required minimum amount stated above.

c) Professional Liability Insurance in an amount not less than **$1,500,000** Single Limit; provided further that in the event the professional liability insurance is in the form of "claims made," insurance, Engineer hereby commits to provide at least 60 days' notice prior to any change to the Professional Liability Insurance policy or coverage ; and in event of any change, Engineer agrees to provide the City with either evidence of new insurance coverage conforming to the provisions of this paragraph which will provide unbroken protection to the City, or, in the alternative, to purchase at its cost, extended coverage under the old policy for the period the state of repose runs; the protection to be provided by said "claims made" insurance shall remain in place until the running of the statute of repose for claims related to this

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Agreement.

d) **City of Duluth shall be named as Additional Insured** under the Commercial General and Automobile Liability Policies. Engineer shall also provide evidence of Statutory Minnesota Workers' Compensation Insurance. Engineer to provide Certificate of Insurance evidencing such coverage with notice to City of cancellation in accordance with the provisions of the underlying insurance policy included. The City of Duluth does not represent or guarantee that these types or limits of coverage are adequate to protect the Engineer's interests and liabilities.

2) Certificates showing that Engineer 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) The City shall be named as an additional insured on each liability policy other than the professional liability and the workers' compensation policies of the Engineer.

4) The certificates shall provide that the policies shall not be cancelled during the life of this Agreement without advanced notice being given to the City at least equal to that provided for in the underlying policy of insurance.

5) Except as provided for in Section IV.D.1.d) above, Engineer hereby commits to provide notice to City at least 30 days in advance of any change in the insurance provided pursuant to this Section IV or in advance of that provided for in the underlying insurance policy or policies whichever is longer. For the purposes of Section IV.D of this Agreement, the term, "changed", shall include cancellation of a policy of insurance provided hereunder and any modification of such policy which reduces the amount of any coverage provided thereunder below the amounts required to be provided hereunder or otherwise reduces the protections provided under such policy to City.

E. HOLD HARMLESS

To the fullest extent permitted by law, Engineer agrees that it shall indemnify and hold harmless the City, its officers, employees, and agents, past or present, from and against any and all claims including but not limited to claims for contribution or indemnity, demands, suits, judgments, costs, and expenses (including attorneys' fees and incurred defense costs) asserted by itself or any person or persons including agents or employees of the City of Duluth or Engineer by reason of death or injury to person or persons or the loss or damage to property to the extent attributable to, or by reason of, any act, omission, operation or work of Engineer or its employees while engaged in the execution or performance of services under this Agreement. Said obligations to indemnify and hold harmless shall include, but not be limited to the obligation to indemnify and hold harmless the City in all matters where claims of liability against the City arise out of, relate to, are attributable to, are passive or derivative of, or vicarious to the negligent, intentional, or wrongful acts or omissions of Engineer, including but not limited to the failure to supervise, breach of warranty, the failure to warn, the failure to prevent such act or omission by Engineer, its employees, or its agents, and any other source of liability. Said obligations to indemnify and hold harmless shall be triggered upon the assertion of a claim for damages against City. Engineer shall not be required to indemnify City for amounts found by a fact finder to have arisen out of the sole negligent or intentional acts or omission of the City

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unless Engineer should fail to comply with its insurance obligations in this contract to the detriment of City, in which case Engineer shall indemnify, defend, and hold harmless the City for any and all amounts except amounts attributed to intentional, willful or wanton acts of the City.

This Section, in its entirety, shall survive the termination of this Agreement if any amount of work has been performed by Engineer. Nothing in this provision shall affect the limitations of liability of the City as set forth in Minnesota Statutes Chapter 466.
Engineer understands this provision may affect its rights and may shift liability.

Engineer shall hold and save the City, its officers, employees, representatives and agents, and the Architect, harmless from liability of any nature or kind, including costs and expenses and reasonable attorney's fees and incurred defense costs to the extent attributable to Engineer's intellectual property infringement 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.

Nothing herein is intended to impose an obligation on Engineer that is void and unenforceable under Minnesota Statutes Section 604.21.

F. TERMINATION

1) This agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligation under this agreement through no fault of the terminating party; provided that no such termination may be affected unless the other party is given not less than fifteen (15) calendar days' prior written notice (delivered by certified mail, return receipt requested) of intent to terminate.

2) This agreement may be terminated in whole or in part in writing by the City for its convenience; provided that the Engineer is given (1) not less than fifteen (15) calendar days' prior written notice (delivered by certified mail, return receipt requested) of intent to terminate and (2) an opportunity for consultation with the City prior to termination.

3) Upon receipt of a notice of intent to terminate from the City pursuant to this agreement, the Engineer shall (1) promptly discontinue all services affected (unless the notice directs otherwise), and (2) make available to the City at any reasonable time at a location specified by the City all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have accumulated by the Engineer in performing this agreement, whether completed or in process.

4) Upon termination pursuant to this agreement, the City may take over the work and prosecute the same to completion by agreement with another party or otherwise.

G. LAWS, RULES AND REGULATIONS

The Engineer agrees to observe and comply with all laws, ordinances, rules and regulations of the United States of America, State of Minnesota, the City of Duluth and their respective agencies and instrumentalities which are applicable to the work and services to be performed hereunder.

H. INDEPENDENT CONTRACTOR STATUS

Nothing contained in this agreement shall be construed to make the Engineer an employee or partner of the City. The Engineer shall at all times hereunder be construed to be an independent

TEMPLATE

contractor.

I. FEDERAL FUNDING

If Federal Funds (i.e. HUD, FEMA, Revenue Sharing) are utilized as a source of Project funding, the Engineer shall abide by the terms of all Federal requirements in the performance of duties hereunder.

J. AMENDMENT OF AGREEMENT

This agreement shall be amended or supplemented only in writing and executed by both parties hereto.

K. WAIVER OF CLAIM

The Engineer waives the right to make any claim whatsoever against any officer, agent or employee of the City for, or on account of, anything done, or omitted to be done, in connection with the drafting or ratification of this contract. In addition, if it is determined that this contract was not drafted or ratified in conformity with Minnesota or federal law, or City of Duluth ordinance or charter provisions, or if the contract includes obligations that are void as to Minnesota or federal law or City of Duluth ordinance or charter provisions, the Engineer agrees to raise no defense and make no claim against the City on the basis of ratification, laches, estoppel, or implied contract. **The Engineer understands this provision may affect its rights and may shift liability and specifically agrees to the same.**

SECTION V. PAYMENT

A. BASIS OF BILLING

City shall pay the Engineer based on hourly rates for all services rendered under Section II Phases A through G, an amount not to exceed the amount in Section V.C, including any and all Project-related expenses such as travel, reproduction of reports and drawings, tolls, mileage, etc. For the purposes of this agreement, the principals and employees of the Engineer and their hourly rates are set forth in Exhibit A.

B. PAYMENT FOR WORK COMPLETED

1) Monthly progress payments may be requested by the Engineer for work satisfactorily completed and shall be made by the City to the Engineer as soon as practicable upon submission of statements requesting payment by the Engineer to the City. When such progress payments are made, the City may withhold up to five percent (5%) of the vouchered amount until satisfactory completion by the Engineer of all work and services within a phase called for under this agreement. When the City determines that the work under this agreement for any specified phase hereunder is substantially complete, it shall release to the Engineer any retainage held for that phase.

2) No payment request made pursuant to subparagraph 1 of this Section V shall exceed the estimated maximum total amount and value of the total work and services to be performed by the Engineer under this agreement without the prior authorization of the City. These estimates have been prepared by the Engineer and supplemented or accompanied by such supporting data as may be required by the City.

3) Upon satisfactory completion of the work performed hereunder, and prior to final payment under this agreement, and as a condition precedent thereto, the Engineer shall execute and

TEMPLATE

deliver to the City a release of all claims against the City arising under or by virtue of this agreement.

4) In the event of termination by City under Section IV.F., upon the completion of any phase of the Basic Services, progress payments due Engineer for services rendered through such phase shall constitute total payment for such services. In the event of such termination by City during any phase of the Basic Services, Engineer also will be reimbursed for the charges of independent professional associates and consultants employed by Engineer to render Basic Services, and paid for services rendered during that phase on the basis of hourly rates defined in Exhibit A of this agreement for services rendered during that phase to date of termination by Engineer's principals and employees engaged directly on the Project. In the event of any such termination, Engineer will be paid for all unpaid additional services plus all termination expenses. Termination expenses mean additional expenses directly attributable to termination, which, if termination is at City's convenience, shall include an amount computed as a percentage of total compensation for basic services earned by Engineer to the date of termination as follows: 10% of the difference between the amount which the Engineer has earned computed as described in paragraphs A and B of this section and the maximum payment amount described in paragraph C of this section. The above applies only if termination is for reasons other than the fault of the Engineer.

C. TOTAL NOT TO EXCEED:

All payments under this Contract are not to exceed Click or tap here to enter text. ($Click or tap here to enter text.).

SECTION VI. SPECIAL PROVISIONS

The following exhibits are attached to and made part of this agreement:

1) Exhibit A, Engineer's Hourly Rates
2) Exhibit B, Engineer's Proposal

In the event of a conflict between the agreement and any Exhibit, the terms of the Agreement will be controlling.

SECTION VII. 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.

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

TEMPLATE

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

CITY OF DULUTH-Client

By: _____
Mayor

Attest:

By: _____
City Clerk

Date: _____

Countersigned:

_____
City Auditor

Approved as to Form:

_____
City Attorney

Click or tap here to enter text.

By: _____

Its: _____
Title of Representative

Date: _____

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