

**INTERAGENCY AGREEMENT
PUBLIC TRANSIT OVERSIGHT**
Between City of Duluth, Minnesota,
City of Superior, Wisconsin, and
Duluth Transit Authority

THIS AGREEMENT, made and entered into this day ____ of February, 2020, by and between the City of Duluth, Minnesota, a municipal corporation located in St. Louis County, Minnesota, hereinafter referred to as “Duluth”, the City of Superior, Wisconsin, a municipal corporation located in Douglas County, Wisconsin, hereinafter referred to as “Superior”, and the Duluth Transit Authority, an entity organized and existing pursuant to Chapter 458A of the Laws of the State of Minnesota, 1969, hereinafter referred to as “DTA”, through its Board of Directors, hereinafter referred to as “Board”. Duluth, Superior and DTA are Parties to this Agreement.

WHEREAS, the DTA has been and is presently providing public bus transit and paratransit service on a regularly scheduled basis in Duluth and Superior; and

WHEREAS, the DTA, under the authority of MN Stat §458A.25(3), has entered into a management contract to operate the public transit system in Duluth and Superior; and

WHEREAS, the DTA through its Board and the City of Superior are required under Federal Transit Administration (“FTA”) Circular 5010.1E (“Circular”), as may be amended from time to time, to conduct oversight of the transit system and the management contractor to ensure DTA operations are conducted in accordance with applicable federal, state and local laws, statutes, ordinances and regulations; and

WHEREAS, the DTA and Superior desire to utilize expertise of Duluth staff to conduct reviews and evaluations of DTA and Superior processes and procedures to verify conformance to FTA requirements; and

WHEREAS, verification is to be conducted in accordance with the Board’s Management Contractor Oversight Process, as may be amended from time to time and incorporated herein by reference, and the description of the scope of work for verification of compliance services referenced herein.

NOW, THEREFORE, in consideration of the mutual covenants herein, the Parties agree as follows:

1. On behalf of the DTA and Superior, Duluth agrees to evaluate and review management contractor compliance and DTA and Superior operations compliance with the requirements of the Circular, and submit written reports to the DTA and Superior at least quarterly on findings and recommended actions, if any. The Board may, at their discretion, request Duluth staff to provide an in-person presentation of reports and

findings to the Board. **Exhibit A** provides a Scope of Work describing tasks to be performed by Duluth staff.

2. Evaluation and verification shall be conducted by a person or persons employed by Duluth and qualified in the determination of the Board to perform said evaluation. It is understood that Duluth staff are not exclusively assigned to DTA and Superior services, and are subject to the terms and conditions set by Duluth in performing these duties. **Exhibit B** identifies minimum qualifications for the Duluth staff selected to conduct and/or oversee the performance of the Scope of Work identified in **Exhibit A**.
3. Notwithstanding the date of execution of this Agreement, the term of this Agreement shall be deemed to commence on February 1, 2020, and performance shall expire on February 1, 2023, unless terminated earlier as provided for herein. Duluth staff evaluation and verification services shall be not less than four (4) hours per month. Service hours may be adjusted at the discretion of the Board in order to meet the requirements and objectives of the Management Oversight Procedures.
4. At no time may Duluth staff be an employee or third party contractor of ATE Management of Duluth, First Transit Inc., or their successors while performing evaluation duties on behalf of the Parties.
5. It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of copartners between the parties hereto or as constituting Duluth as an agent, representative or employee of the DTA or Superior for any purpose or in any manner whatsoever.

Duluth staff are not entitled to any compensation rights or benefits of any hospital care, sick leave, vacation pay, Workers' Compensation, Unemployment Insurance, disability pay, or severance pay from Superior, the DTA, ATE Management of Duluth, First Transit, Inc. or their successors.

6. Duluth staff shall submit written reports to the DTA and Superior of activities performed for the reporting period, and may include recommendations for resolution of findings if requested by the Board.
7. The Board shall be responsible for determining whether recommended actions are consistent with FTA and Board requirements, are able to be implemented without undue financial or operational burden upon the DTA, its customers or members of the public, and may be completed on a timeline set by the Board President or designee. The Board may consult with the management contractor, Duluth, Superior, FTA, and/or third parties while evaluating recommendations, and may decline, at the sole discretion of the Board, to implement any recommendation.

8. Within thirty (30) days of submittal of the report to the Board, the DTA General Manager may submit a written response to the Board on findings and recommended actions promulgated by City staff. The DTA General Manager shall include all data and supporting documentation to support said response, and shall make such materials available to the Board and City staff for review.
9. The Board shall have thirty (30) days to review the DTA General Manager response and issue a decision on implementing recommended actions. The Board may consult with City staff, the FTA, Superior, the DTA General Manager and management contractor staff, and/or third parties during the review of the appeal. The decision of the Board shall be final.
10. The DTA will pay Duluth a non-refundable fee of \$1000.00 per month for a minimum of four hours of service and up to eight hours of service. For any hours in excess of eight hours per month, the DTA will pay \$120.00 per hour. Duluth will bill the DTA separately for any hours over eight hours per month.
11. In addition to the reimbursement provided for in Paragraph 10, the DTA shall reimburse Duluth for any additional expenses necessarily incurred in the performance of the services herein, including travel, training, supplies, testing materials, etc., as applicable. Additional expenses shall be approved by the Board President or designee prior to the expenses being incurred.
12. Reports shall be submitted in writing to the Board and Superior in sufficient detail for the Board and Superior to determine that services under this Agreement have been rendered and are in accordance with the applicable provisions herein. The frequency and contents of the reports may be adjusted by mutual agreement of the Parties.
13. Responsibilities of Duluth:
 - a. Duluth staff shall be selected by Duluth and agreed upon by the Board. Approval of evaluation personnel shall not be unreasonably withheld.
 - b. Provide day to day supervision of Duluth staff, and provide necessary equipment and IT access to efficiently perform the duties herein.
 - c. Ensure that services provided under this Agreement are in accordance with generally accepted standards of the profession for provision of services of this type.
 - d. In the event the DTA General Manager determines there are issues related to the performance of assigned Duluth staff which are detrimental to the best interests of the DTA, the Parties agree to meet in good faith to resolve said issues.
14. Responsibilities of the DTA and Superior:

- a. Ensure that DTA and Superior provide access to all data, reports, information, and tools necessary for Duluth staff to perform the services herein in a timely and efficient manner.
 - b. Ensure that management contractor staff and Superior staff continue to cooperate with and accommodate Duluth staff to the greatest extent possible while performing duties on behalf of the DTA and Superior.
 - c. The Board President or designee shall respond to complaints or concerns forwarded by Duluth staff, Superior, management contractor staff or the FTA with expediency and in a manner in accordance with applicable laws, statutes, ordinances, regulations and policies. Disputes that are not resolved by the Parties may be forwarded to the Duluth City Attorney's office for further action, at the discretion of the Board.
 - d. Provide oversight activity reports to the FTA or other agencies as required.
15. This Agreement shall not be terminable except by ninety (90) days' written notice by any Party to the other Parties.
16. Each party shall be responsible for its own acts and omissions, the acts and omissions of its employees, and results thereof to the extent authorized by law.
17. Duluth must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the DTA and Superior under this agreement, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by Duluth under this agreement. If Duluth receives a request to release the data referred to in this clause, Duluth must immediately notify the DTA and consult with the DTA as to how Duluth should respond to the request. Duluth's response to the request must comply with applicable law. The civil remedies of Minnesota Statutes Section 13.08 apply to the release of the data referred to in this clause by Duluth.
18. Any alterations, variations, modifications or waivers of terms of this Agreement shall be binding upon the Parties only upon being reduced to writing and signed by a duly authorized representative of each party.
19. 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.

IN WITNESS WHEREOF, the parties have set their hands this ____ day of February, 2020.

CITY OF DULUTH

By: _____

By: _____

Title: Mayor

Title: City Clerk

By: _____

By: _____

Title: Auditor

Title: City Attorney

CITY OF SUPERIOR

By: _____

By: _____

Title: _____

Title: _____

DULUTH TRANSIT AUTHORITY

By: _____

By: _____

Title: _____

Title: _____

EXHIBIT A

SCOPE OF WORK

For Monitoring DTA's Compliance with FTA Requirements by Duluth Staff

1. Review the status of the DTA's FY 2019 Triennial Review Final Report, performed for the US DOT Federal Transit Administration Region V, dated September 27, 2019, its findings and corrective actions for each and every identified deficiency, including subsequent submittals to FTA Region V to document corrective actions taken and procedures to maintain FTA compliance going forward.
2. Conduct follow up review of DTA's compliance related documentation and communications with FTA and other entities including the contract operator, First Transit; and Superior; and rolling stock, capital equipment, and/or other suppliers; and others as appropriate.
3. Identify any outstanding deficiencies or corrective actions and assist DTA in scheduling compliance measures, documentation, review and submittal to FTA.
4. In cooperation with the DTA's General Manager, establish and schedule, at least quarterly, periodic performance reviews of DTA's compliance with US Code, Chapter 53 of Title 49. The purpose of these reviews is to maintain on an ongoing basis, DTA's compliance with FTA's statutory and regulatory requirements documented in FTA Order 9010.B, April 5, 1993.
5. Prepare written reports and/or correspondence documenting compliance review results at least quarterly to identify findings and recommendations to the DTA and Superior. Present the findings and recommendations to the Board upon request.

EXHIBIT B

QUALIFICATIONS OF DULUTH STAFF

City of Duluth staff members assigned to conduct and/or oversee the performance of the Scope of Work identified in Exhibit A shall possess, at a minimum, one of the following professional qualifications:

1. Certification by the American Institute of Certified Planners (AICP), Certified Transportation Planner (CTP), or Professional Transportation Planner (PTP) by the Institute of Transportation Engineers;
2. A graduate degree in Planning or a related field and two years of professional planning experience; or
3. A bachelor's degree in Planning or a related field and three years of professional planning experience.

Qualifications of Duluth staff shall be documented and made available to FTA upon request.