

# REQUEST OF QUALIFICATIONS AND PROPOSAL FOR A SOUTHWEST SALT LAKE COUNTY TRANSIT FEASIBILITY STUDY

## INTRODUCTION

Wasatch Front Regional Council, the Metropolitan Planning Organization (MPO) for Salt Lake, Weber and Davis Counties, Utah, is soliciting *Request for Qualifications and Proposal* from qualified consultants who can complete a transit feasibility study for the Southwestern Salt Lake County.

The West Salt Lake County Transit Study identified an extension of light rail service from the Daybreak Development west toward the foothills of the Oquirrh Mountains as well as an extension south into the cities of Herriman and Riverton. That study also recommended a BRT line extending from the Herriman-Riverton area east to connect to the future Draper FrontRunner station (located at approximately 12800 South). The purpose of the project is to evaluate the transit travel market in southwestern Salt Lake County. This evaluation will include an inventory and analysis of demographic, economic and transportation data as well as land use, zoning and other municipal data. This inventory and analysis will be used to assess the feasibility of a major capital transit project that would meet the needs of the communities in the region. The study will summarize and present recommendations regarding potential transit corridors and technologies that may be feasible within the Study Area.

## General Requirements of Proposals

All proposals should include the following elements:

1. A resume describing the qualifications of the proposing firm, including: (1) the experience of the firm in related projects, especially a listing of points of contact and phone numbers for previously completed projects, (2) a description of the experience and technical competence of specific staff members to be assigned to the project, (3) a specification for each of the individuals who will have major responsibilities for the study, (4) a full description of the background of the project manager with a specific commitment of time, and (5) a description of the firm's current projects and work load sufficient to determine the adequacy of the staff to handle the study.
2. A work program describing the steps to be completed in the area study. Attached, as Appendix A is a study work scope describing the basic work, which must be accomplished. The consultant will have the latitude to modify or add to the study design in the proposal.
3. A schedule with calendar time required to complete each work element and a completion date for major milestones in the project.
4. An indication that the proposing firm is familiar with the requirements of the Federal Transit Administration, specifically the New Starts criteria for projects.

Proposals must meet the following requirements:

1. 12 copies of the proposal must be provided for the review process.
2. Proposals should be no longer than 12 pages, exclusive of resumes.

3. A duly authorized official of the proposer must sign proposals. Consortiums, joint ventures, or teams submitting proposals will not be considered responsive unless it is established that all contractual responsibility rests solely with one contractor or legal entity, which shall not be a subsidiary, or affiliate with limited resources. Each proposal should indicate the entity responsible for execution on behalf of the proposal team.
4. This project is funded by Riverton City, South Jordan City, Herriman City, and the Utah Transit Authority. Therefore, all offerors will be required to sign the following certificates: Affirmative Action and Disadvantaged Business Enterprise Statement (Attachment A), Buy America Certification (Attachment B), Certification Regarding Debarment and Suspension, and Other Ineligibility and Voluntary Exclusion from Transactions Financed in Part by the U.S. Government (Attachment C), Certification of Restrictions on Lobbying (Attachment D), and Certification Regarding Cargo Preference (Attachment E).
5. In connection with this proposal, the contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor shall take affirmative action to ensure applicants are employed, and employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but is not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and training including apprenticeship.
6. In connection with this proposal, WFRC agrees to recognize UTA's DBE Program ("DBE Program Plan"), which shall apply when referencing DBE requirements. The selected contractor will be required to provide for full and fair utilization of DBEs and use its best efforts to ensure DBEs an equitable opportunity to compete for subcontract work.

Contractors agree to abide by the following statement of obligation:

- a. **Policy:** It is the policy of the Department of Transportation (DOT) that DBEs as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this agreement.
- b. **DBE Obligation:** WFRC and UTA or its contractor agrees to ensure DBEs as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, WFRC and its sub-recipients, contractors, and subcontractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure DBEs have the maximum opportunity to compete for and perform contracts. The WFRC and its contractors shall not discriminate on the basis of race, color, religion, sex, or national origin in the award and performance of DOT assisted contracts.
- c. WFRC/UTA's DBE Plan will be incorporated by reference in the contract with the selected firm. This program shall be treated as a legal obligation and failure to carry out the DBE program requirements shall be treated as a violation of this financial agreement, and may result in termination of the agreement or contract, or such remedy as WFRC deems appropriate.

Included, as Appendix C, is a copy of the forms for reporting DBE utilization.

For clarification of task descriptions and work program items, please contact Jory Johner at [jjohner@wfrfc.org](mailto:jjohner@wfrfc.org). Telephone requests for clarification are discouraged.

Proposals must be submitted to the WFRC offices at 295 North Jimmy Doolittle Road, Salt Lake City, Utah, 84116 by noon on Thursday, February 11, 2010.

WFRC reserves the right to accept or reject proposals including the right to reject all proposals and re-solicit, if deemed necessary. Selection of a firm is also dependent on the negotiation of a mutually acceptable contract with the successful proposer.

### **Selection Process**

A consultant selection committee will review the proposals, which are received in response to this request. Following the review of the proposals, a firm to conduct the study will be selected. If the committee feels it is necessary, it may invite a short list of firms to make oral presentations to the committee and answer questions concerning their proposal. The designated project manager would be expected to lead the oral presentation. Subsequent to approval, the selected firm will be notified and negotiations for a contract for the project will begin.

### **Selection Criteria**

The selection committee in choosing a firm to assist in the study will use the following criteria:

1. **Experience:** (20 points) Firms will be evaluated according to their current and past experience and the individuals assigned to this project. Experience will cover current and past efforts and their quality in analyzing similar transit and land use projects.
2. **Qualifications of Staff Assigned:** (35 points) The professional qualifications and time availability of the staff assigned to manage and conduct the study will be reviewed.
3. **Approach:** (35 points) The proposal will be reviewed for completeness, organization, innovation, and soundness of the technical approach to the project.
4. **Project Management:** (10 points) A statement of schedule, major milestones, and approach to management of the project will be reviewed along with the experience and reliability in performing and managing similar work in past projects. The plan for interaction throughout the project with technical and policy officials of the region will also be considered.

The following schedule will govern consultant selection:

Advertisement of RFQ / RFP	January 14, 2010
Statements of Qualification and Proposals due	Noon MST on February 11, 2010
Selection Committee to review proposals	Week of February 15, 2010
Possible interviews and selection of Consultant	Week of February 22, 2010
Contract Execution / Project Initiation	March 15, 2010

**Protest Procedures**

Protests will be accepted only from prospective contractors who would be directly and materially affected by the award, or failure to award a contract. Any protests shall be submitted in writing to the Project Manager Jory Johner at 295 North Jimmy Doolittle Road, Salt Lake City, Utah 84116 and must include:

- The name, address and telephone number of the protesting firm, and must be signed by a principal officer of the firm.
- A detailed statement as to the nature of the protest.

Protests will be accepted prior to Noon MST, March 5, 2010. Thereafter, protests will be returned to the protestor without action. The Project Selection Committee will review all protests to determine their merit and will forward a recommended response to the appropriate reviewing body. No contract will be awarded under this RFP until a decision on the protest is reached. Should award of the contract be delayed because of a protest all respondents to this RFP will be notified.

**Project Funding**

The project will need to be completed within the available funding. The budget for the study is approximately \$200,000.

## **APPENDIX A SOUTHWEST SALT LAKE COUNTY TRANSIT FEASIBILITY STUDY SCOPE OF WORK**

### **Project Purpose**

By 2015 a new extension of the UTA TRAX system will open with an end-of-line station located in the Daybreak Development in South Jordan. In addition to this light rail line, UTA is currently working on developing a Bus Rapid Transit (BRT) line within the 5600 West corridor that will ultimately terminate within the Daybreak Development as well. The recently completed West Salt Lake County Transit Study (AECOM 2009) put forth recommendations that included an extension of light rail service from the Daybreak Development west toward the foothills of the Oquirrh Mountains as well as an extension south into the cities of Herriman and Riverton. That study also recommended a BRT line extending from the Herriman-Riverton area east to connect to the future Draper FrontRunner station (located at approximately 12800 South).

The purpose of the project is to evaluate the transit travel market in southwestern Salt Lake County. This evaluation will include an inventory and analysis of demographic, economic and transportation data as well as land use, zoning and other municipal data. This inventory and analysis will be used to assess the feasibility of a major capital transit project that would meet the needs of the communities in the region. The study will summarize and present recommendations regarding potential transit corridors and technologies that may be feasible within the Study Area.

### **Project Overview**

The Study Area for this project consists of approximately 30 square miles located between 6000 West on the west, 200 West on the east, 14600 South on the south and 11400 South on the north (See Figure 1). The project Study Area has currently approximately 29,000 households and approximately 26,000 jobs. By the year 2030 households and employment in the area are anticipated to grow to approximately 55,000 and 53,000 respectively. Additionally, the area is home to the site of a future satellite campus for the Salt Lake Community College.

This study has been initiated in order to evaluate the feasibility of a major capital transit project that could potentially extend from the end-of-line TRAX station located in Daybreak (South Jordan) south toward Herriman and Riverton (approximately 13400 South) and head eastward, eventually connecting to the future Draper FrontRunner station near Bangerter Highway. The study will also take into consideration the general alignment of any other major transit project that may originate from the Daybreak Development west toward the foothills of the Oquirrh Mountains. This latter alignment will only be considered as far as it is required to cross the future Mountain View Corridor highway.

The Study Area includes two major freeway class roadways, Bangerter Highway and the future Mountain View Corridor. Major east-west arterial corridors located in the Study Area include 11400 South, 11800 South, 12600 South, 13400 South and 14400/14600 South. Major north-south corridors include 6000 West, 5600 West, 4000 West, 2700 West, Redwood Road and 1300 West. Existing transit routes currently operating within the Study Area include Fast-Bus Routes 347, 327 and 304 as well as the 518 local route on Redwood Road.

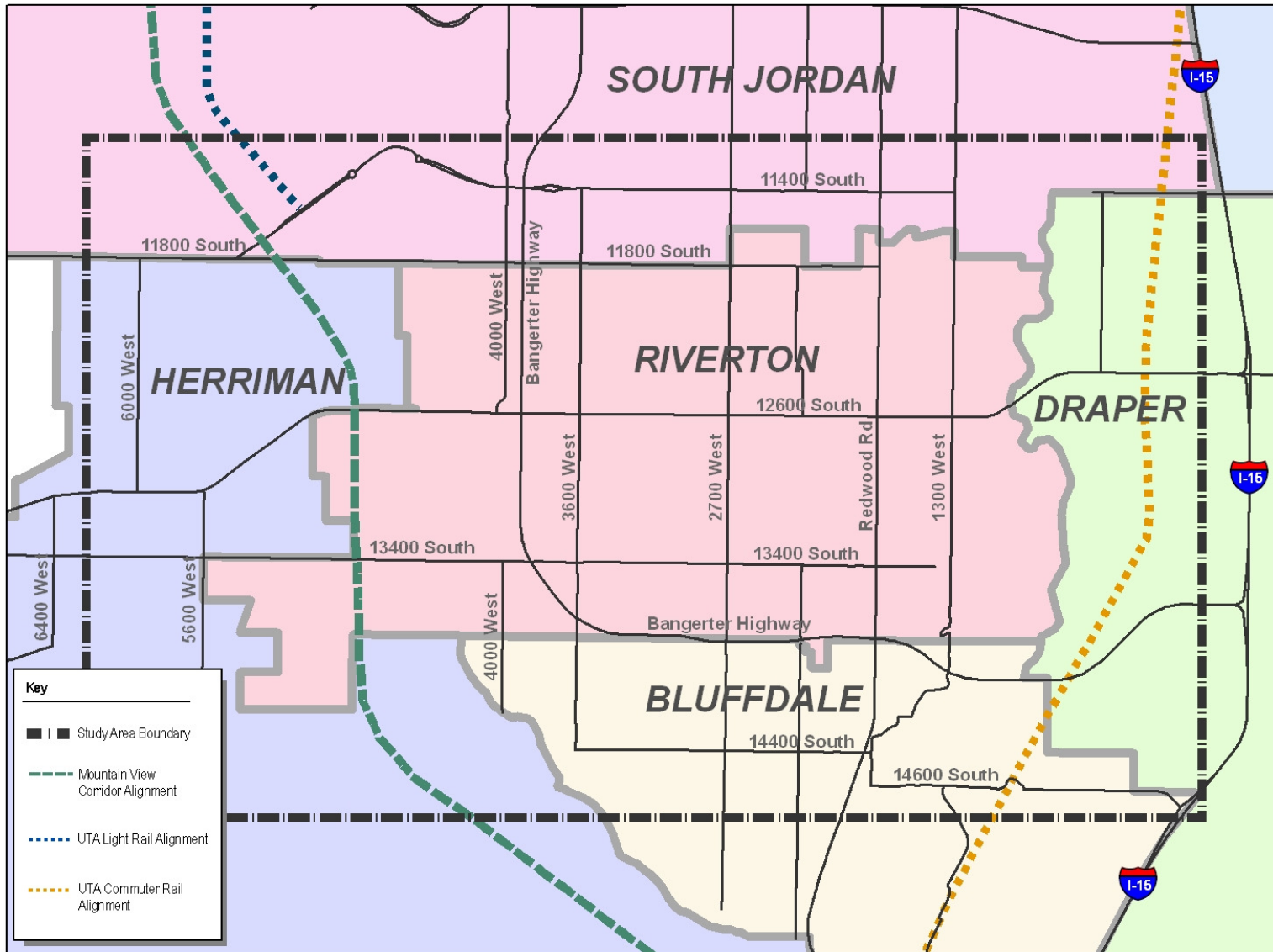


Figure 1 – Study Area

## **Study Activities**

### ***Task 1: Project Management & Study Initiation***

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The objective for the project management and study initiation task is to establish all of the management tasks, including a Project Management Plan preparatory to initiating the study. Meeting these objectives will ensure clear communication and subsequent task management from the beginning and throughout the duration of the project.

#### ***Project Management Tasks:***

- a) Developing a Project Management Plan including a refined work scope, schedule, budget, quality control, and invoicing protocol
- b) Formation of the Steering Committee and/or Technical Advisory Group
- c) Coordination of Steering Committee and/or Technical Advisory Group meetings
- d) Creation and maintenance of project record files, including meeting agendas and minutes
- e) Conduct kick-off meeting

#### ***Deliverables for Task 1:***

1. Project Management Plan
2. Meeting minutes or notes, as appropriate, for all meetings
3. Monthly invoices including balance to completion by task
4. Stakeholders Contact List
5. Steering Committee and/or Technical Advisory Kick-off meeting dates and agendas

### ***Task 2: Study Preparation***

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The objective of the Study Preparation task is to gather and prepare all of the resources required for summary and analysis of existing conditions and general study area characteristics.

**NOTE:** *Students from the University of Utah Planning Department under the direction of WFRC and UTA staff will be participating in the Study Preparation Task through the gathering of existing conditions data. This data will include demographic, economic and transportation planning data, including projections as well as property ownership, land use, zoning and other municipal data. The students will also compile all current transit information within the study area, including routes, frequency and boardings. The consultant's budget and schedule should reflect this coordination. (See Appendix B)*

#### ***Study Preparation Tasks:***

- a) Identification and gathering of property ownership, land use, zoning and other municipal data
- b) Gathering of existing demographic, economic and transportation data, including projections, in the study area
- c) A review and summary of relevant studies recently completed within the study area

### ***Deliverables for Task 2:***

1. Draft 'Table of Contents'
2. Draft 'Introduction' chapter
3. Draft 'Existing Conditions' Chapter

### ***Task 3 – Public Involvement***

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The purpose of this task will be to build an understanding within the affected communities of the criteria for a major capital transit investment and to involve the public through the solicitation of comments on potential transit technologies and alignments within the area.

**NOTE:** *Students from the University of Utah Planning Department under the direction of WFRC and UTA staff will be participating in the Public Involvement Task by researching potential community input resources available in the study area and producing a list of such resources for use by the consultant. The students will also be involved in this task by being prepared to attend any scheduled public meetings and answer questions and take comments from the public. The consultant's budget and schedule should reflect this coordination. (See Appendix B)*

#### ***Public Involvement Tasks:***

- a) Developing an approach to working with the communities and the committee/advisory group structure
- b) Identification of community input resources available through the stakeholders
- c) Community outreach activities for the project
- d) Website to gather public comments
- e) Tracking and documentation of public comments

#### ***Deliverables for Task 3:***

1. Public Involvement Plan
2. Public outreach activity (i.e. public meeting, public presentation, community survey, etc.)
3. Draft 'Public Involvement' chapter including public comment by location and issue

### ***Task 4 - Purpose & Need and Draft Project Criteria***

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The objective of this task will be to prepare a purpose and need (P&N) statement and an outline of the project criteria. These two products should clearly outline and identify why the project is necessary and the goals and objectives that any proposed alternatives intend to achieve.

#### ***Purpose & Need and Draft Project Criteria Tasks:***

- a) Prepare draft purpose and need statement based upon the study area characteristics gathered in Task 2 as well as stakeholder and public input
- b) Develop draft project criteria
- c) Finalize purpose and need statement

#### ***Deliverables for Task 4:***

1. Draft 'Purpose and Need' chapter

#### ***Task 5 – Market Analysis and Land Use Planning***

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The goal of market analysis and land use planning as it relates to transportation is to make sure the supply of transportation is adequate to meet the market demand. This task involves a compilation and analysis of the data gathered in Task 2 in order to determine the how each community anticipates growth to occur and what transit solutions may be best suited to meet those growth patterns.

#### ***Market Analysis and Land Use Planning Tasks:***

- a) Determination of market projections for the project study area using the area characteristics from Task 2
- b) Develop land use maps, including existing zoning and general plans for the area

#### ***Deliverables for Task 5:***

1. Market projections
2. Land use planning analysis
3. Draft 'Market Analysis and Land Use Planning' chapter including maps

#### ***Task 6 – Development of Transit Alternatives***

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The primary objective of the Transit Alternatives Development Task will be to consider all of the potential transit alternatives ('universe') within the study area and produce a short list of the most promising alternatives.

**NOTE:** *Students from the University of Utah Planning Department under the direction of WFRC and UTA staff will be performing the task of researching and compiling the 'universe' of transit alternatives. This same group will also be responsible for producing a matrix to screen the universe of alternatives and ultimately produce a 'Short List' of alternatives. The students will be required to produce a 'Technical Memorandum' with their results for use by the consultant. The consultant's budget and schedule should reflect this coordination. (See Appendix B)*

#### ***Development of Transit Alternative Tasks:***

- a) Develop a descriptive list to reflect the 'universe' of potential transit alternatives (alignments and technologies) within the study area
- b) Develop a matrix to screen the proposed universe of alternative alignments and technologies
- c) Develop a short list of alternatives
- d) Outline of the screening criteria and methodology for the long list of alternatives and documentation of the selection and screening of alternatives

***Deliverables for Task 5:***

1. Draft 'Transit Alternatives' chapter

***Task 7 – Identification of a Preferred Alternative***

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The objective of this task is to conduct travel demand analysis and establish a common rating and ranking of the short list of alternatives and identify a preferred transit alternative for the study area.

***Identification of Preferred Alternative Tasks:***

- a) Develop order of magnitude costs including capital and operations and maintenance for the short list of alternatives
- b) Conduct travel demand analysis in order to determine the performance of the alternatives on the short list
- c) Create an assessment for the short list alternatives as compared to current UTA federally funded transit projects and 'pipeline' projects on the Regional Transportation Plan
- d) Select a preferred alternative using a collective weighting/scoring of alternatives using costs and the Purpose & Need and criteria identified in Task 4

***Deliverables for Task7:***

1. Draft 'Preferred Alternative' chapter

***Task 8 – Draft Recommendation***

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The objective of this task is to produce a document that identifies the preferred alternative and puts forth a recommendation identifying the next steps in the project development process. This task also involves working with each of the stakeholders to present the proposed recommendation to key decision makers and gather support for the preferred alternative identified in Task 7. Where applicable, proceed to an approval process with each stakeholder organization.

- a) Build support for specific tools that the project stakeholders can use to increase ridership, lower costs, or otherwise increase the competitiveness of the project for potential federal funding
- b) Encourage resolutions from municipalities in support of the preferred alternative
- c) Identify additional study and next steps for the advancement of the project

***Deliverables for Task 8:***

1. Draft 'Next Steps' chapter
2. Where applicable, resolutions from the various jurisdictions incorporating the preferred alternative into their guiding documents

## ***Task 9 – Final Report***

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The objective of this task will be to compile and refine each of the draft chapters and technical memoranda into a final report.

- a) Prepare Draft Final Report
- b) Solicit comments from the stakeholders and address comments
- c) Prepare and deliver Final Report

### ***Deliverables for Task 9:***

1. Draft Final Feasibility Study Report
2. Final Feasibility Study Report

**APPENDIX B**  
**SOUTHWEST SALT LAKE COUNTY TRANSIT FEASIBILITY STUDY**  
**UNIVERSITY OF UTAH PLANNING DEPARTMENT**  
**STUDENT SCOPE OF WORK**

**Student Participation Overview**

In preparing to initiate the Southwest Salt Lake County Feasibility Study, the stakeholders, WFRC and UTA staff conducted an initial meeting to discuss the expectations, scope and potential costs associated with such a study. During the course of that meeting it was suggested that on past studies of similar size and scope, students enrolled in the planning departments at local universities had been successfully engaged to execute various tasks on those studies. While the use of local university students as resources on planning studies provides a cost savings to the project reducing stakeholder, WFRC and UTA contributions to the project, there are tangential benefits as well. The students that graduate and choose to seek work along the Wasatch Front enter the market place with useful skills and a working knowledge of the planning processes that are ongoing in the region. WFRC and UTA through its contacts with the University of Utah Planning Department has chosen to employ students from the Planning Department as volunteers to support this study.

**Student Tasks**

WFRC has prepared the following scope of work to guide the activities for the students from the University of Utah Planning Department. The students that will participate are members of Hal Johnson's transportation planning course at the University. Hal Johnson is also the Manager of BRT Engineering and Construction at UTA. The students' work will be a supplement to the final Southwest Salt Lake County Transit Feasibility Study report.

**Student Supervision**

It is assumed that the WFRC and UTA Project Managers will act as the single point of contact for the students with WFRC, and their primary advisor on the project at the University will be Hal Johnson. The WFRC and UTA Project Managers will meet with the students at least once for each task as well as required meetings with the stakeholders and consultant as identified in the scope of work.

**Student Project Activities**

***Student Task 1 – Existing Conditions***

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The purpose of this first student task is to establish a context for the study by compiling the data that describe the existing conditions within the study area. Before a "Purpose and Need" for a project can be established, it is important to understand the existing conditions, including socio-economic, demographic and other transportation related issues within the study area that will define the project, and may influence subsequent tasks.

***Existing Conditions Tasks:***

- a) Identification and gathering of property ownership, land use, zoning and other municipal data

- b) Gathering of existing demographic, economic and transportation planning data, including projections, in the study area
- c) Compile all current transit information within the study area, including routes, frequency and boardings

***Deliverables for Task 1:***

1. 'Existing Conditions' Technical memorandum

***Student Task 2 – Public Involvement***

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Public involvement is a critical component of any major public investment. The students will be asked to gather a list of public input resources within the study area and also to participate in supporting any public involvement activities associated with study. Depending on the Public Involvement Plan that is developed by the hired consultant, the students' role may include the provision of visual aids demonstrating the technologies researched for the universe of alternatives to participation in answering questions and taking comments from the public at any scheduled public meetings.

***Public Involvement Tasks:***

- a) Students may be asked to participate in any public involvement tasks including answering questions and taking comments from the public at any scheduled public meetings
- b) Research potential community input resources available in the study area

***Deliverables for Task 2:***

1. List of community input resources available in the study area

***Student Task 3 – Research and Summarize the “Universe of Transit Alternatives”***

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The primary objective of this task will be for the students to compile a 'Universe of Potential Transit Alternatives'. This is a long list of transit mode and alignment alternatives that includes all possible transit technologies and alignments that could be considered within the study area. The research will result in a technical memorandum, and will also be used as visual aids in the public involvement process.

***Universe of Alternatives Task:***

- a) Identification and gathering of information related to all potential transit mode and alignment alternatives that could be considered within the study area including the potential markets for transit
- b) Clear identification of the benefits and disadvantages each of the alternatives in the list
- c) Present findings at a meeting that includes the stakeholders and consultant to finalize “universe of alternatives”

***Deliverables for Task 3:***

1. 'Universe of Transit Alternatives' Technical memorandum

***Student Task 4 – Universe of Alternatives Screening***

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The students will develop a criteria matrix for evaluating the universe of alternatives. The students will utilize the matrix in an exercise to rank the universe of alternatives based on the purpose and need and the criteria identified for the project.

***Universe of Alternatives Screening Tasks:***

- e) Develop a qualitative list to reflect the 'universe' of potential transit alternatives (alignments and technologies) within the study area
- f) Develop a matrix to screen the proposed universe of alternative alignments and technologies
- g) Develop a short list of alternatives
- h) Outline the screening criteria and methodology for the long list of alternatives and documentation of the selection and screening of alternatives
- i) Present findings at a meeting that includes the stakeholders and consultant to finalize "short list of alternatives"

***Deliverables for Task 4:***

1. 'Short List of Alternatives' Technical Memorandum

## **APPENDIX C DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION**

### **DISADVANTAGED BUSINESS ENTERPRISES (DBEs)**

The Wasatch Front Regional Council agrees to recognize Utah Transit Authority's (Authority) Disadvantaged Business Enterprises Program Plan ("DBE Program Plan") and shall not discriminate in the administration of the Disadvantaged Business Enterprise Program, or the requirements of 49 CFR Part 26. The Authority will take necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Department of Transportation (DOT) assisted contracts. The Authority's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement.

It is each Contractors responsibility to read, understand and comply with the Authority's DBE program and 49 CFR Part 26. The Authority's DBE Liaison Officer is available to help answer questions concerning the Authority's DBE program.

Implementation of this program is a legal obligation and failure to carry out its terms will be treated as a violation of this agreement. Failure by the Authority to carry out the Authority's approved program may result in DOT-imposed sanctions as provided for under Part 26 and may, in appropriate cases, result in enforcement actions under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.) Contractor agrees to indemnify the Authority for any such sanctions received as a result of the actions and omissions of Contractor or its sub-contractors.

### **DBE CONTRACT GOAL**

As required by 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs," the Authority will annually adopt an overall DBE goal for goods and services procured under the Authority's federally assisted contracts. While the expected percentage of DBE participation may vary from contract to contract, due to availability of DBEs, the Authority believes the overall goal to be realistically obtainable over the year.

### **THE DBE GOAL for this PROJECT IS – RACE NEUTRAL.**

Race neutral DBE participation (49 CFR 26.51a) includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g. a prime contractor that uses a strict low bid system to award subcontracts).

**Good Faith Efforts** is the bidder/offeror documentation to meet the contract goal, race neutral. The amount of DBE participation will be determined by the dollar value of the work subcontracted to DBEs as compared to the total value of all work performed under this contract, and/or, by the percentage of the net profit which the parties agree will be shared by DBEs where a joint venture is entered into for the completion of the project.

### **DBE INSTRUCTIONS TO CONTRACTORS**

Contractors are required to complete and return Attachments A, and A-1 which obligates the Contractor to assert a good faith effort to attain the specified goal (RACE NEUTRAL) for DBE participation.

## **DBE REQUIREMENTS, TERMS, AND CONDITIONS**

A DBE is defined as;

- A Disadvantaged Business Enterprise (DBE) is defined as a business that is at least 51% owned and controlled by minorities, women or other individuals who face social or economic obstacles in the marketplace,
- The company's gross receipts cannot exceed \$17.3 million dollars, averaged over a three year period and,
- The owner(s) personal net worth cannot exceed \$750,000.

1. A Contractor who fails or refuses to complete and return the applicable certifications to this RFP shall be deemed non-responsive and will not be awarded a contract.

Where a Contractor intends to attain its goal for DBE participation by subcontracting or use of a joint venture, it must complete and submit the following certifications as appropriate: Attachments A and A-1.

2. All Contractors are required to submit written assurance of meeting contract goal (RACE NEURTAL) in their bids/proposals and will submit: (1) names of DBE sub-contractors; (2) a description of the work they are to perform; and (3) the dollar value of each proposed DBE subcontract. In order to be a responsive bidder/proposer, a Contractor must meet the specified DBE contract goal or demonstrate sufficient good faith efforts to do so. Meeting the contract goal or making sufficient good faith efforts to do so, no less than meeting technical specifications or complying with bid or proposal procedures, is a necessary condition of responsiveness.
3. The Contractor's expressed goal stated in the DBE Attachment B-1 shall express the Contractor's commitment to the percentage of DBE utilization during the term of the contract.
4. The Contractor's commitment to a specific goal is to meet DBE objectives and is not intended and shall not be used to discriminate against any qualified company or group of companies.
5. The Contractor must actively and aggressively seek to meet the specific contract goal for the project or the overall goal if an individual contract goal has not been set. In determining whether a Contractor has made good faith efforts to ensure DBE participation if awarded the contract, the Authority may consider, and the Contractor must be able to provide, evidence regarding the good faith efforts.

The Authority will award a contract only to a bidder/proposer who makes good faith efforts to meet the established goal. A bidder/proposer has made a good faith effort if the bidder/proposer does either of the following:

1. Documents that it has obtained enough DBE participation to meet the goal; or
2. Documents that it has made adequate good faith efforts to meet the goal, including assurances that the Contractor has done the following:
  - (1) Attended any pre-solicitation or pre-bid meetings that were scheduled by the Authority to inform DBEs of contracting and subcontracting opportunities;

- (2) Advertised in general circulation, trade association, and minority-focused media concerning the subcontracting opportunities;
- (3) Provided written notice to a reasonable number of specific DBEs that their interest in the contract was being solicited, in sufficient time to allow the DBEs to participate effectively;
- (4) Followed up initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested;
- (5) Selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);
- (6) Provided interested DBEs with adequate information about the plans, specifications and requirements of the contract;
- (7) Negotiated in good faith with interested DBEs, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;
- (8) Assisted interested DBEs in obtaining bonding, lines of credit, or insurance required by the Authority or the Contractor, and;
- (9) Used the services of available minority community organizations; minority contractor's groups; local, state, and Federal minority business assistance offices; and other organizations that provide assistance in the recruitment and placement of DBEs.

For further guidance and additional steps to take concerning good faith efforts, see 49 CFR Parts 23 and 26, Federal Register, Vol. 64, No. 21, Tuesday, February 2, 1999. A copy is included in the Authority's DBE Plan. The Authority's DBE Plan is available from the Authority upon request.

If the Authority determines that the apparent successful Contractor has failed to meet the foregoing requirements, before awarding the contract the Authority will provide the Contractor an opportunity for administrative reconsideration. As part of this reconsideration, the Contractor will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The Authority's decision on reconsideration will be made by a DBE Administrative Hearing Officer. The Contractor will be given the opportunity to meet in person with the Authority's reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The Authority will send the Contractor a written decision on reconsideration, explaining the basis for finding that the Contractor did or did not meet the goal or make adequate good faith efforts to do so. The result of this reconsideration process is not administratively appealable to DOT.

6. Termination of DBE Sub-contractors. No contractor may terminate for convenience a DBE sub-contractor listed in response to this request (or an approved substitute DBE firm) and then perform the work of the terminated sub-contractor with its own forces or those of an affiliate, without the Authority's prior written consent.

When a DBE sub-contractor is terminated, or fails to complete its work on the contract for any reason, the prime contractor must make good faith efforts to find another DBE sub-contractor to substitute for the original DBE. These good faith efforts must be directed at finding another DBE to perform at least the same amount of work under the

contract as the DBE that was terminated, to the extent needed to meet the contract goal the Authority established for the procurement.

The Authority reserves the right to order completion of the work (that was subcontracted to a DBE who is unable to perform successfully), by any of the following three methods:

1. Modify or renegotiate the contract to compensate for reasonable extra costs or time necessary to obtain a DBE replacement.
2. Modify or renegotiate the contract to provide for the completion of the work by the prime contractor.
3. Order the work completed by the prime contractor to be reimbursed as provided for in subsection 109-5, Extra and Force Account Work of the Standard Specifications.

Termination of a DBE sub-contractor in contravention of these requirements will be a material breach of the contract and will result in forfeiture by the Contractor of the contract amounts that should have been accomplished by DBE participation.

This section will also apply to DBE bidders/proposers for prime contracts. In determining whether a DBE bidder/proposer for a prime contract has met the established contract goal, the Authority will count the work the DBE has committed to perform with its own forces as well as the work that it has committed to be performed by DBE sub-contractors and DBE suppliers.

7. Prompt payment mechanisms as an inducement for DBE participation. The Contractor will pay all sub-contractors for satisfactory performance of their contracts no later than ten (10) days from receipt of each payment the Authority makes to Contractor.

Contractor will return retainage payments to the sub-contractor within thirty (30) days after the sub-contractor's work is satisfactorily completed, unless Contractor has received its retention proceeds from the Authority, then the preceding paragraph will apply.

Upon notification to the Authority that appropriate payments have not been made by Contractor to its sub-contractors, the Authority will give written notice to Contractor that it has breached the contract. If Contractor fails to immediately correct the breach, the Authority may elect to withhold from future payments due Contractor monies sufficient to pay the outstanding amounts due sub-contractors. Contractor will be responsible to pay interest at the statutory rate on the amounts it owes sub-contractors for amounts not paid when originally due. Repeated or continued failure by Contractor to make appropriate payments to sub-contractors will be a material breach of the contract and may result in termination of the contract and denial of future opportunities to bid on the Authority's projects.

8. The Contractor will maintain those records and documents for three (3) years following performance of the contract which indicate compliance with these DBE requirements. These records and documents, or copies thereof, will be made available at reasonable times and places for inspection by any authorized representative of the Authority and will be submitted to the Authority upon request; together with any other compliance information which such representative may require.
9. Monitoring. The Authority's DBE Liaison Officer will monitor the work committed to

DBEs under this contract to determine what work is actually performed by the DBEs. Contractor will provide all information requested by the DBE Liaison Officer to enable the Authority to keep a running tally of DBE attainments (e.g., payments actually made to DBE firms). The Authority will give credit for DBE participation toward overall or contract goals only when payments are actually made to DBE firms.

10. DBE Financial Institutions. The Authority continues to seek services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in its geographic area. To date, no such financial institutions have been identified. The Authority will encourage prime contractors to use such institutions as they are identified.

### **COUNTING DBE PARTICIPATION TOWARD GOALS**

When a DBE participates in a contract, the Authority will count only the value of the work actually performed by the DBE toward DBE goals. The Authority will include in this count the following:

1. The entire amount of that portion of a construction contract that is performed by the DBEs own forces. The cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE sub-contractor purchases or leases from the prime contractor or its affiliate) is included in this amount.
2. The entire amount of fees or commissions charged by a DBE firm for providing a bonafide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract, toward DBE goals, provided the Authority determines the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services.
3. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work, only if the DBEs sub-contractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.
4. When a DBE performs as a participant in a joint venture, the Authority will count only the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE performs with its own forces toward DBE goals.
5. The Authority will count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract.
6. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a commercially useful function, the DBE Liaison Officer will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

7. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, the DBE Liaison Officer will examine similar transactions, particularly those in which DBEs do not participate.
8. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, the Authority will presume that it is not performing a commercially useful function.
9. When a DBE is presumed not to be performing a commercially useful function as provided in this section, the DBE may present evidence to rebut this presumption. The Authority may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

**ATTACHMENT A  
AFFIRMATIVE ACTION AND DISADVANTAGED  
BUSINESS ENTERPRISE STATEMENT**

The undersigned states on behalf of the bidder/Proposer \_\_\_\_\_:

A. The Bidder/Proposer has given or will give, prior to the commencement of an approved UTA project, notice to all pertinent personnel, i.e., managers, supervisors, employees, unions, sub-contractors, etc. of the contractor's EEO and DBE policies and procedures and its intent and effort to realize such procedures in connection with the EEO and DBE requirements that UTA is required to follow as a Federal Transit Administration Grantee.

B. Bidder/Proposer designates --

Name \_\_\_\_\_

Title \_\_\_\_\_

as the person assigned the responsibility for securing compliance with and reporting progress to the Bidders/Proposers and UTA's office of EEO on all affirmative action efforts initiated and taken.

C. Bidder/Proposer will cooperate fully with UTA and ensure equal employment opportunity to the maximum extent possible during the term of this contract. UTA will further be kept fully informed of any refusals by unions or others to cooperate with UTA's and the contractor's EEO and DBE requirements.

D. Bidder/Proposer agrees to make every reasonable good faith effort to utilize disadvantaged and women business enterprises in the performance of this contract. Bidder/Proposer will take affirmative steps to meet the DBE contract goal set for this bid.

Company Name \_\_\_\_\_

Address \_\_\_\_\_

Signed \_\_\_\_\_

Title \_\_\_\_\_

Phone Number \_\_\_\_\_

**ATTACHMENT A-1  
DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION FORM**

**DBE PROJECT GOAL: RACE NEUTRAL**

The Bidder/Proposer must check the appropriate box, provide the information requested, and sign this form certifying to the accuracy of the information provided, and submit this form with its bid. Failure to complete and submit this form may result in rejection of the bid/proposal as nonresponsive.

- Bidder/Proposer will meet the DBE goal for this contract.** If awarded this contract, bidder/proposer will subcontract with the DBEs listed below, which will be performing a total of \_\_\_\_\_ percent ( \_\_\_\_\_ %) of the total dollar amount of the contract work.

Bidders/Proposers shall submit and attach evidence with this form that the DBEs being submitted for work on this project are either presently certified by the Utah Transit Authority or the Utah Department of Transportation (UDOT). The DBE Letters of Intent (Attachment A-2) are included with this DBE Participation Form.

<u>DBE Name &amp; Address</u>	<u>Description of Work</u>	<u>\$ Amount of Participation</u>	<u>% of Total Price</u>
_____	_____	\$ _____	_____ %
_____	_____	\$ _____	_____ %
_____	_____	\$ _____	_____ %
_____	_____	\$ _____	_____ %

(attach additional sheets if necessary)

- Bidder/Proposer ***does not*** meet the DBE goal for this contract. **Bidder/Proposer certifies that it has made good faith efforts** in accordance with the bid/proposal instructions to meet the DBE goal, but, despite those efforts, has been unable to meet the goal. The Good Faith Efforts Documentation Form (Attachment A-3) is attached to this DBE Participation Form.

- Bidder/Proposer ***does not*** meet the DBE goal for this contract. **Bidder/Proposer certifies that there exists no opportunity for subcontracting as part of this project.** It is the general practice of Bidder/Proposer's firm to perform all work of this nature solely with its own work force and to do otherwise would constitute a violation of industry standards.

Date \_\_\_\_\_

Company Name \_\_\_\_\_

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

**ATTACHMENT B  
BUY AMERICA PROVISION**

This procurement is subject to the Federal Transit Administration Buy America Requirements in 49 CFR Part 661.

A Buy America Certificate, as per attached format, must be completed and submitted with the submittal. A submittal which does not include the certificate will be considered non-responsive.

A false certification is a criminal act in violation of 18 U.S.C. 1001. Should this procurement be investigated, the successful Proposer/Bidder has the burden of proof to establish that it is in compliance.

A waiver from the Buy America Provision may be sought by UTA if grounds for the waiver exist.

Section 165(a) of the Surface Transportation Assistance Act of 1982 permits FTA participation on this contract only if steel and manufactured products used in the contract are produced in the United States.

BUY AMERICA CERTIFICATE

The Proposer/Bidder hereby certifies that it will comply with the requirements of Section 165(a) of the Surface Transportation Assistance Act of 1982 and the applicable regulations in 49 CFR Part 661.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

or

The Proposer/Bidder hereby certifies that it cannot comply with the requirements of Section 165(a) of the Surface Transportation Act of 1982, but may qualify for an exception to the requirement pursuant to Section 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act and regulations in 49 CFR 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

**ATTACHMENT C**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER  
INELIGIBILITY AND VOLUNTARY EXCLUSION FROM TRANSACTIONS  
FINANCED IN PART BY THE U.S. GOVERNMENT**

I, \_\_\_\_\_, \_\_\_\_\_  
(Name of Certifying Officer) (Title of Certifying Officer)

hereby certifies that neither \_\_\_\_\_, nor its principals:  
(Name of Contractor)

1. Are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal department or agency or from participation in \_\_\_\_\_ with Utah Transit Authority.  
(Contract Number and/or Name)
2. Have not within a three-year period preceding this submittal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction; violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this bid/proposal had one or more public transactions (Federal, state, or local) terminated for cause or default.

I hereby certify and affirm the truthfulness and accuracy of the above statement, and I understand that the provisions of 31 United States Code (U.S.C.) 3801 et seq., (Administrative Remedies For False Claims and Statements) are applicable hereto.

\_\_\_\_\_  
(Name of Contractor)

Address and Phone Number of  
Contractor:

\_\_\_\_\_  
(Signature of Certifying Officer)

\_\_\_\_\_

(Note: The above certification merely certifies that a Proposer/Bidder or their sub-contractors are not declared by the Federal Government or have not voluntarily declared themselves debarred, suspended, or declared ineligible from doing transactions with the Federal Government or any of its agencies.)

**ATTACHMENT D**  
**CERTIFICATION OF**  
**RESTRICTIONS ON LOBBYING**

I, \_\_\_\_\_, hereby certifies  
(Name and Title of Company Official)

on behalf of \_\_\_\_\_ that:  
(Name of Company)

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By \_\_\_\_\_  
(Signature of Authorized Official)

\_\_\_\_\_  
(Title of Authorized Official)

**ATTACHMENT E**

**CARGO PREFERENCE -- USE OF UNITED STATES-FLAG VESSELS**

Pursuant to Maritime Administration regulations, "Cargo Preference -- U.S.-Flag Vessels," 46 C.F.R. Part 381, the Contractor shall insert the following clauses in contracts it awards in which equipment, materials or commodities may be transported by ocean vessel in carrying out the Project:

AS REQUIRED BY 46 C.F.R. PART 381, THE CONTRACTOR AGREES --

(1) TO UTILIZE PRIVATELY OWNED UNITED STATES-FLAG COMMERCIAL VESSELS TO SHIP AT LEAST 50 PERCENT OF THE GROSS TONNAGE (COMPUTED SEPARATELY FOR DRY BULK CARRIERS, DRY CARGO LINERS, AND TANKERS) INVOLVED, WHENEVER SHIPPING ANY EQUIPMENT, MATERIALS, OR COMMODITIES PURSUANT TO THIS CONTRACT TO THE EXTENT SUCH VESSELS ARE AVAILABLE AT FAIR AND REASONABLE RATES FOR UNITED STATES-FLAG COMMERCIAL VESSELS.

(2) TO FURNISH WITHIN 20 DAYS FOLLOWING THE DATE OF LOADING FOR SHIPMENTS ORIGINATING WITHIN THE UNITED STATES, OR WITHIN 30 WORKING DAYS FOLLOWING THE DATE OF LOADING FOR SHIPMENT ORIGINATING OUTSIDE THE UNITED STATES, A LEGIBLE COPY OF A RATED, "ON-BOARD" COMMERCIAL OCEAN BILL-OF-LADING IN ENGLISH FOR EACH SHIPMENT OF CARGO DESCRIBED IN PARAGRAPH (1) ABOVE TO THE AUTHORITY (THROUGH THE PRIME CONTRACTOR IN THE CASE OF SUB-CONTRACTOR BILLS-OF-LADING) AND TO THE DIVISION OF NATIONAL CARGO, OFFICE OF MARKET DEVELOPMENT, MARITIME ADMINISTRATION, 400 SEVENTH STREET, S.W., WASHINGTON, D.C. 20590, MARKED WITH APPROPRIATE IDENTIFICATION OF THE PROJECT.

(3) TO INSERT THE SUBSTANCE OF THE PROVISIONS OF THIS CLAUSE IN ALL SUBCONTRACTS ISSUED PURSUANT TO THIS CONTRACT.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_