

**REQUEST FOR PROPOSAL**  
**for**  
**Mountain Accord (Phase II) Transportation Consultant**  
**for the Cottonwood Canyons**

**Introduction**

The Wasatch Front Regional Council (WFRC), in conjunction with the Executive Board of the Mountain Accord, is soliciting Requests for Proposals and Qualifications from transportation engineering and planning firms to assist in the analysis, proposal and execution of short-term and long-term transportation solutions for the Cottonwood Canyons.

Mountain Accord is a multi-phase initiative that seeks to make critical decisions regarding the future of the central Wasatch Mountains. Mountain Accord is collaborating between public and private interests, including state and local governments, federal agencies, business, and community organizations. Public involvement is an important component of this effort, and input received will be used to inform and guide the process.

Currently the Mountain Accord Executive Board is not a formal entity. A neutral interlocal agency is being created and it is anticipated that Mountain Accord contracts held by WFRC will be transferred to this agency after it is created.

**General Requirements of Proposals**

All proposals should include the following elements:

1. A statement of qualifications of the proposing firm(s) individual, including the experience and technical competence of proposed key staff, a listing of contact information for previously completed projects.
2. A brief approach outlining the steps and major milestones to complete the scope of work in Appendix A.
3. In a separate sealed envelope, provide one copy of the proposed fee structure, to include hourly rates for key staff. As WFRC reserves the right at its discretion to enter into a final contract for fewer tasks as described in this RFP, the scope and costs of the awarded contract may be negotiated with the selected contractor.

Proposals must meet the following requirements:

1. 12 copies of the proposal must be provided for the review process.
2. 1 electronic copy of the complete proposal.
3. Proposals should be no longer than 12 pages, exclusive of cover letter, resumes, and attachments.
4. 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.
5. This project is funded by stakeholders of the Mountain Accord process, who pool funds into an account managed by WFRC. Federal funds may be used for this project.

Therefore, all offerors will be required to sign the following certificates in Appendix B: Affirmative Action and Disadvantaged Business Enterprise Statement (Attachment 1), Buy America Certification (Attachment 2), Certification Regarding Debarment and Suspension, and Other Ineligibility and Voluntary Exclusion from Transactions Financed in Part by the U.S. Government (Attachment 3), and Certification of Restrictions on Lobbying (Attachment 4).

6. 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.
7. In connection with this proposal, WFRC's Disadvantaged Business Enterprise (DBE) program will apply. 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 U.S. Department of Transportation (DOT) that DBEs as defined in 49 CFR Part 23 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 23 apply to this agreement.
- b. **DBE Obligation:** WFRC or its contractor agrees to ensure DBEs as defined in 49 CFR Part 23 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 23 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's DBE Plan will be incorporated by reference in the contract with the selected individual or 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.

For clarification of task descriptions and work program items, please contact Ned Hacker, 295 North Jimmy Doolittle Road, Salt Lake City, Utah, 84116, 801-363-4250, nhacker@wfr.org. Telephone requests for clarification are discouraged. Questions regarding the proposal are due on the date indicated in the schedule below. Answers to question regarding the proposal will be provided on WFRC's website ([www.wfr.org](http://www.wfr.org)), under the Contact Us tab, Request for Proposal section, and on the Mountain Accord website ([www.mountainaccord.com](http://www.mountainaccord.com)), on the date indicated on the schedule below.

Proposals must be submitted to the WFRC offices at 295 North Jimmy Doolittle Road, Salt Lake City, Utah, 84116 by the date indicated on the schedule below.

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

### **Selection Process**

The Selection Committee will review the proposals, which are received in response to this request. The Selection Committee may be comprised of the Mountain Accord Program Director, members of the Mountain Accord Management Committee or their designees, and representatives from UDOT, UTA and WFRC. 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 qualifications and proposal. The selected firm will be notified after the interviews and negotiations for a contract for the project will begin.

### **Selection Criteria and Schedule**

The Selection Committee in choosing a firm to assist in the project will use the following criteria:

1. **Qualifications:** (75 points) Firms will be evaluated according to their current and past work efforts of the individuals assigned to this project. Qualifications include the abilities of individuals, professional qualifications and time availability of the staff assigned to the project.
2. **Approach:** (25 points) Proposals will be reviewed for completeness, organization, innovation, and soundness of the technical approach to the project.

The following schedule will govern consultant selection:

Advertisement of RFP	March 21, 2016
Questions regarding the proposal due	Noon MST on March 28, 2016
Answers to questions posted	NLT 5 pm MST on March 30, 2016
Proposals due	Noon MST on April 12, 2016
Selection or short list for interviews	week of April 18, 2016
Possible interviews and selection of consultant	week of April 25, 2016
Contract execution/project initiation	May 20, 2016

### **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 Ned Hacker 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, Wednesday May 4, 2016. Thereafter, protests will be returned to the protestor without action. The 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.

## APPENDIX A

### SCOPE OF WORK

#### Mountain Accord (Phase II) Transportation Consultant for the Cottonwood Canyons

##### **Project Background**

The Mountain Accord agreement (the 'Accord') represents the culminating commitment of more than 20 organizations who, through a voluntary, multi-year, public, consensus-based planning process agreed to proceed with a suite of actions designed to ensure that future generations can enjoy all the activities we do today, while preserving our watershed and natural environment. The Accord was the culmination of Phase I.

The intent of the Accord is to benefit current and future generations by establishing an integrated, comprehensive, landscape-scale framework for the future of the Central Wasatch Mountains that provides for the long-term protection of the region's water, lands, environment, recreational opportunities, and economic prosperity. The signers of the Accord support a transportation system that serves these value.

The next phase of the effort will focus on:

- Implementing the land preservation and recreation actions in the Accord,
- Finalizing and implementing short-term transportation solutions, and
- Planning for long-term transportation solutions.

##### Transportation Purpose from Accord

Under Purpose, the Accord calls for the following related to recreation and transportation:

- A recreation system that supports a range of settings, accommodates current and increasing demand by encouraging high levels of use at thoughtfully designed locations (nodes) with convenient access, while protecting solitude, nature, and other backcountry values.
- A sustainable, safe, efficient, multi-modal transportation system that provides year-round choices to residents, visitors and employees; connects to the overall regional network; serves a diversity of commercial and dispersed recreation uses; is integrated within the fabric of community values and lifestyle choices; supports land-use objectives; and is compatible with the unique environmental characteristics of the Central Wasatch.

Additional sections from the Accord relevant to transportation are included at the end of this Scope of Work.

##### **Purpose and Objectives of this RFP**

The purpose of this RFP is to secure a transportation consultant to assist with short-term and long-term transportation solutions for the Cottonwood Canyons and to provide program support for GIS and report production. A separate RFP will be released through Summit County or UDOT for transportation and corridor planning work related to Parleys Canyon (I-80) and SR-224/248 in Park City.

Specifically, the objectives of the transportation work to be completed are:

1. Recommendation for short-term solutions and phasing plan for:
  - a. winter 2016/2017
  - b. summer 2017

- c. 5-year horizon (inclusion in the Statewide Transportation Improvement Program)
  - d. 10-year horizon
2. Recommendation for long-term solutions or range of options for Long Range Plans.
  3. Evaluation of connection options between Big Cottonwood Canyon (BCC) and Little Cottonwood Canyon (LCC).

### **Team Capabilities and Experience**

The following capabilities and experience are needed:

- Transit service planning and policy analysis
- Auto pricing and parking strategies
- Best available technologies for data collection and analytics, origin/destination analysis, performance tracking
- Travel demand management and large venue/event transportation planning
- Transit market and behavioral surveys
- Design and engineering experience for major construction projects
- Environmental analysis for transportation alternatives
- Evaluation of trade-offs for various travel demand/transportation/parking approaches
- Ability to succinctly communicate complex concepts and trade-offs in a comprehensive manner
- GIS/Mapping including, story-telling maps for trails, transportation, and public lands
- Public friendly report production

### **Scope of Work**

The selection team seeks innovative approaches from proposers on how to accomplish the objectives of this effort. A preliminary outline of scope items is included below.

#### Task 1 - Data Collection and Evaluation Framework

A data collection program and evaluation framework is needed to aid in the decision-making process. The best available existing data should be analyzed, in addition to collecting new data where appropriate. For example, better information is needed on travel times, number of occupants per car, and origin/destination by time of day, week, and year.

An overall framework to evaluate short and long-term solutions and to track performance of short-term solutions should be developed. Specific objectives and metrics to identify success for short and long-term timeframes should be based on Mountain Accord system group goals, the final Accord, and public feedback since the Accord (a transportation survey was conducted in February 2016). As solutions are implemented, metrics should be in place to track what is working and to track shifts in mode, parking, demand by time of day or week, etc.

The selected consultant should estimate and communicate changes in traffic and parking patterns, troubleshoot and develop contingencies for various planned scenarios, and track and communicate actual performance after solutions are implemented.

In addition to evaluating short and long-term scenarios, an evaluation of the trade-offs of various transportation approaches is needed. For example, what the trade-offs are between:

- express routes to each resort in winter versus more frequent routes to all resorts, or
- smaller parking lots closer to residential areas with longer bus routes versus larger, more central and easy to find parking structures.

Last, the implication of short-term decisions on long-term solutions needs to be understood before short-term solutions are implemented.

## Task 2 – Short-term Transportation Solutions for Cottonwoods

The goal is to develop a phasing plan for solutions that do not require USFS NEPA or major construction in the canyon. The phasing plan should include the following timeframes:

- Winter 2016/2017
- Summer 2017
- 5-year plan
- 10-year plan

Preliminary scope could include:

- Bus service and shuttles
  - Identify and evaluate options for increased bus or private shuttle service in winter and new bus or private shuttle service in summer.
- Parking strategy
  - Identify location(s) and range of parking spaces needed in the valley to meet goals.
  - Identify specific sites for parking and multi-use/TOD opportunities, conduct preliminary site feasibility and costs.
  - Coordinate closely with Cottonwood Heights, Sandy, Salt Lake County, Salt Lake City to identify sites consistent with their local plans, and using information from previous studies.
  - Evaluate options to incentivize parking further away from the base of the canyons.
  - Develop real time dynamic information communications plan options, weekend/ peak day management strategies.
- An evaluation of snow day impacts and alternatives for staging cars to reduce impacts on residents and public safety operations in coordination with the canyon patrol.
- Incentives
  - Identify and evaluate options to incentivize transit and carpooling and disincentivize single occupancy auto use.
  - Evaluate innovative fee collection technologies and methods.
  - Estimate costs and revenues and trade-offs for various pricing and parking strategies.
  - Identify target markets for behavior change (pass holders, out of state visitors, employees, etc.).
  - Evaluate innovative ways to give bus priority on approaches to the canyons.
- Travel demand management
  - Inventory TDM solutions that have been proposed in previous studies and status.
- Road Cycling
  - Develop a coordinated plan and provide conceptual engineering for road cycling amenities in the canyons, including the approaches.
- Avalanche Analysis
  - Avalanche analysis will be provided by UDOT.

## Task 3 - Long-term Transportation Plan for Cottonwoods

- The selected consultant will finalize specific objectives and design criteria based on Mountain Accord System Group Goals, Accord, and results of Task 1.

- For summer season, overlay Scenic Byways study, Mountain Accord idealized recreation system, and Cottonwoods Parking study and compare needs and conclusions from each.
- Develop a range of concepts (in partnership with US Forest Service (USFS)/National Park Service (NPS) for detailed evaluation. Develop concepts for each option including alignments and area of impact, points of connections, and visualizations.
- Compare concepts against Mountain Accord system group goals and evaluation framework from Task 1.
  - Assess transportation impacts/ benefits including regional traffic conditions for various regional scenarios to include Parleys transit options and benefits or reduction in parking in the canyons.
  - Assess preliminary impacts to watershed, dispersed recreation (using existing data).
  - Forecast increased use and increased commercial opportunity.
- Evaluate costs and revenues and compare options on the life-cycle cost effectiveness.
- Make recommendation for a project or range of alternatives to include in 2050 Long Range Transportation Plan.
- USFS/NPS Partnership. The USFS/NPS is available to identify user groups and their needs, develop an adaptive management system to ensure recreation activities' impact on the environment is minimized, and to provide conceptual site design services for recreation and transit nodes in the canyons. The selected firm will use information generated by the USFS/NPS to customize long-term transportation solutions to user group needs and to direct users to areas designed to handle increasing use. The USFS/NPS will provide site design and graphics/visualization services for potential transit stops in the canyons.

#### Task 4 - BCC-LCC Connection

- Finalize specific objectives and design criteria based on Mountain Accord System Group Goals, Accord, and results of Task 1.
- Identify a range of options that could meet transportation objectives including no connection, transit tunnel connection that preserves ridgelines and open space, and other options from stakeholder input.
- Evaluate options based on the evaluation framework.
- Describe how connection options could integrate with short and long-term transportation options for the Cottonwoods and Town of Alta commercial zone plan.

#### Task 5 - GIS/Mapping

Provide GIS/mapping services to include innovative story-telling maps for trails, transportation, land protections, and other needs as they arise. Utah State AGRC will host data and selected consultant will coordinate with AGRC.

#### Task 6 - Report Production

Summarize results for short-term and long-term solutions in public-friendly reports. Provide report production support for other program components if needed.

#### Task 7 - Mobile App (Optional)

Develop or leverage existing mobile app for canyon users to access bus and parking information.

### Town of Alta Commercial Zone

The Town of Alta is in the process of planning a commercial zone at the base ski resort area, to be completed in summer 2016. Coordinate the short and long-term transportation alternatives to meet the town's objectives and integrate into the town's plans.

### Schedule

A preliminary schedule, subject to input from the selected consultant, is as follows:

- Final set of short-term solutions for winter 2016/2017 - by August 2016
- Final set of short-term solutions for summer 2017 - by January 2017
- 5-year, 10-year, and long-term solutions - within 1 year of Notice to Proceed

It is anticipated that the consultant will be retained after 1 year to continue planning, implementing, and measuring performance of transportation solutions.

### **Budget**

An estimate of \$1 million is budgeted for transportation work for the next 3 years. The consultant work will likely be phased.

### **Management of Work**

The Mountain Accord Program Director will manage the work of the consultant selected for this project. WFRC will manage contracting and invoicing. The consultant will coordinate and communicate directly with technical staff from applicable municipalities and agencies. Public engagement for this project will be funded through the Mountain Accord Program Director and is not included in this scope of work.

Listed below as a reference, are the ACCORD (August 2015) sections relevant to this Mountain Accord (Phase II) Transportation Consulting for Cottonwood Canyons RFP. The entire Accord document can be viewed at the Mountain Accord website ([www.mountainaccord.com](http://www.mountainaccord.com)).

### Purpose

Under Purpose, the Accord calls for the following related to recreation and transportation:

- A recreation system that supports a range of settings, accommodates current and increasing demand by encouraging high levels of use at thoughtfully designed locations (nodes) with convenient access, while protecting solitude, nature, and other backcountry values.
- A sustainable, safe, efficient, multi-modal transportation system that provides year-round choices to residents, visitors and employees; connects to the overall regional network; serves a diversity of commercial and dispersed recreation uses; is integrated within the fabric of community values and lifestyle choices; supports land-use objectives; and is compatible with the unique environmental characteristics of the Central Wasatch.

### Desired Outcomes

Specifically, the following outcomes related to recreation and transportation are desired:



- To design a balanced recreation system with a wide variety of recreational opportunities for residents and visitors that will reduce the degradation of natural resources caused by such uses. To focus recreation infrastructure at strategically located and designed nodes, to provide convenient access at these nodes, and to accommodate and manage growth in recreation uses. To integrate trail access with transit solutions.
- To create transportation connections between the economic and population centers in the urban areas and the recreation destinations in the Central Wasatch Mountains that support the environmental, recreation, and economic goals of the Accord and serve residents, employees, and visitors. Such transportation connections should increase transit use, walking, and biking and decrease single-occupancy vehicle use.
- To plan and implement transportation solutions in the canyons (specifically the Cottonwoods) with the goal of reducing risks associated with avalanches, winter weather, rockslides, incidents, and other hazards and to improve emergency response capabilities and evacuation routes.

#### Transportation Actions - Cottonwoods

Since the Accord was signed, the Executive Board recommended focus on short-term transportation solutions that do not require major construction in the Cottonwood canyons and therefore a NEPA process for transportation improvements within the canyons is not needed. However, a long-term plan that can be included in the 2050 Long Range Transportation plan is needed.

For the Cottonwoods, the Accord calls for the evaluation of the following (these could apply to short and/or long-term solutions):

- Alternatives that connect to the existing regional public transportation system, and that incentivize public transit, walking, and biking to and in the Cottonwood Canyons
- Alternatives that dis-incentivize single-occupancy vehicle access to and in the Cottonwood Canyons. Specific options could include but are not limited to: recreation fees, congestion pricing, ski resort parking fees, U.S. Forest Service parking fees, tolling, single-occupancy vehicle restrictions, and elimination of roadside parking in the canyons. Any such options should be regionally coordinated
- Bus –based, low-impact transit alternative(s) that do not require major construction in the canyons (*Note: since the Accord was signed, this has become the focus of short-term solutions*)
- Bus or rail transit improvements on the Fort Union corridor, the 9400 South corridor, Wasatch Boulevard, and Little Cottonwood Canyon (*Note: fixed-guideway alternatives for Little Cottonwood Canyon are only a consideration for the 2050 Long Range Transportation Plan, not for short-term solutions*)
- A potential non-auto tunnel connection between Big Cottonwood Canyon and Little Cottonwood Canyon, including an evaluation of environmental consequences such as increased usage, increased commercial opportunity, impacts to dispersed recreation, and impacts to water resources. Equal consideration should be given to options that do not connect the canyons.
- Options that improve the cycling and pedestrian environments in Big Cottonwood and Little Cottonwood Canyons and in the approaches to the canyons

- Public transit stations and associated amenities that are thoughtfully designed to complement the natural setting of the Canyons, and to encourage biking, walking, and transit use
- Trams, ski lifts, or other aerial modes are not recommended
- Alternatives that create increased capacity for single-occupancy vehicles are not preferred

Important to this phase of work, the Accord calls for analysis on the following questions and trade-offs:

- To what extent should single-occupancy vehicles be restricted or charged with fees?
- Should the transportation alternative include an independent guideway? If so, should it be on the road, near the road, or in a separate alignment outside avalanche paths? *(Note: this question as it pertains to Little Cottonwood Canyon is applicable to Long-term solutions).*
- How can the road and selected transportation alternative be protected from avalanches?
- How can parking needs be reduced for the various alternatives?
- How can we maintain convenient access points and reasonable cost for canyon users?

#### Guardsman Pass Road

As a note of reference, the Accord recommends maintaining Guardsman Pass Road in its current management in winter (closed).

## APPENDIX B

### DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

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

The WFRC and the Utah Department of Transportation (UDOT) shall not discriminate in the administration of its Disadvantaged Business Enterprise Program, or the requirements of 49 CFR Part 26. WFRC 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.

It is each Contractor's responsibility to read, understand, and comply with 49 CFR Part 26.

#### **DBE CONTRACT GOAL**

##### **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 1, and 1-A 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 1 and 1-A.

2. All Contractors are required to submit written assurance of meeting contract goal (RACE

NEUTRAL) 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 1-A 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 WFRC may consider, and the Contractor must be able to provide, evidence regarding the good faith efforts.

The WFRC 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:

- a. Documents that it has obtained enough DBE participation to meet the goal; or
- b. 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 WFRC 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.

If the WFRC determines that the apparent successful Contractor has failed to meet the foregoing requirements, before awarding the contract the WFRC 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 WFRC'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 WFRC's reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The WFRC 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 WFRC'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 WFRC established for the procurement.

The WFRC 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:

- a. Modify or renegotiate the contract to compensate for reasonable extra costs or time necessary to obtain a DBE replacement.
- b. Modify or renegotiate the contract to provide for the completion of the work by the prime contractor.
- c. 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 WFRC 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 WFRC, then the preceding paragraph will apply.

Upon notification to the WFRC that appropriate payments have not been made by Contractor to its sub-contractors, the WFRC will give written notice to Contractor that it has breached the contract. If Contractor fails to immediately correct the breach, the WFRC 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 WFRC'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 WFRC and will be submitted to the WFRC upon request; together with any other compliance information which such representative may require.
9. Monitoring. The WFRC's project manager 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 WFRC Project Manager to enable the WFRC to keep a running tally of DBE attainments (e.g., payments actually made to DBE firms). The WFRC 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 WFRC 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 WFRC 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 WFRC will count only the value of the work actually performed by the DBE toward DBE goals. The WFRC 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 WFRC 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 DBE's 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 WFRC 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 WFRC 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 project manager 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 WFRC project manager 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 WFRC 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 WFRC may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

**ATTACHMENT 1**

**AFFIRMATIVE ACTION AND DISADVANTAGED  
BUSINESS ENTERPRISE STATEMENT**

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

1. The Bidder/Proposer has given or will give, prior to the commencement of an approved WFRC 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 WFRC is required to follow as a Federal Highway Administration Grantee.

2. Bidder/Proposer designates -

Name \_\_\_\_\_

Title \_\_\_\_\_

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

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

4. 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 1-A**

**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 presently certified by the Utah Department of Transportation (UDOT). The DBE Letters of Intent 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 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 2**

**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 WFRC 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 3**

**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 the Wasatch Front Regional Council. (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 4**  
**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)