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Payson 800 South Study **Area Transportation Service and Facilities Study**

Request for Qualifications

Value Based Selection Method

September 2020



Payson 800 South Study

Area Transportation Facilities Study - RFQ

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NOTICE TO CONSULTANTS

Mountainland Metropolitan Planning Organization (MPO) under the Mountainland Association of Governments (MAG) in partnership with Payson City and Utah Department of Transportation (UDOT) is soliciting the services of qualified firms/individuals to perform consulting services for the following project: Payson 800 South Study

STUDY DESCRIPTION

The city of Payson is experiencing tremendous growth pressures on its west and south quadrants including MTECH wanting to build a campus and a high demand for housing density in the area. Due to these pressures the city wants to explore the feasibility of various alternatives and develop a plan and cost estimate to connect 800 South from where it currently ends west of the I-15 interchange to West Mountain and 5600 West to allow for greater connectivity and access from the west side of Payson.

The intent is to look at each of the challenges of making this connection to develop the best and most cost-effective alternative through some difficult geography and barriers caused by railroad lines.

STUDY COMPONENTS

The study will identify any needed transit connections linking employers, significant destinations in the transportation network. The study shall address short-term travel demand and long-term growth and corridor preservation needs. Proposed short term improvements should represent a significant step toward good mobility in near future.

An essential component of the study will be to coordinate the various transportation plans Payson City, MAG, UDOT, and UTA. The results of this study will become the basis for future Plan updates.

The study documents and maps will be submitted in GIS and/or .pdf format in order to allow easy integration into the various transportation plans of the agencies, county, municipality, and the MPO.

The consultant in cooperation with MAG, UDOT, and Payson City staff will form a technical committee for the project. The consultant will be responsible to set, preside, and keep minutes of these meetings. The committee shall meet regularly as determined by the committee as needed and will likely be in an online format.

The consultant should thoroughly understand and be able to communicate travel demand issues to the committees.

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This study is intended to identify justification for future transit projects and new service strategies that will enhance transit mobility in the northwestern area of Utah County. The study will be used to illustrate transportation demand and solutions for the area.

Planning budget for this study is \$125,000.00. Ideally, the project will be completed within 9 months.

The steering committee may desire to ask that additional work to be added to the scope which may necessitate additional time and a corresponding increase in budget.

PROCUREMENT PROCESS

Mountainland MPO intends to enter into an agreement with a firm to provide professional services as described. The selection of the firm will be made using a Value Based Selection (VBS) system. The Project Schedule lists the important events, dates, times and locations of meetings and submittals. The terms of the project schedule are hereby incorporated by reference and must be met by the selected firm.

1. Request for Qualifications Documents

The Request for Qualifications (RFQ) documents consist of all of the documents listed in the Table of Contents and all said documents are incorporated in this RFQ by reference. The RFQ will be available at Mountainland per the attached schedule and on the Mountainland web site at www.mountainland.org.

2. Contacting Project Manager

In order to keep the flow of information equitable to all applicants, any contact with the Mountainland project manager will be documented. The project manager has set aside two days to schedule any meetings to answer questions about the project and scope. Interested applicants can email or call the project manager and schedule an appointment for online meetings for September 29 or 30, 2020. All meetings will be held using an online format hosted by and at the applicant firms choosing. Questions and answers from these meetings will be documented and posted without identifying the applicant on the Mountainland website on October 1, 2020.

Chad Eccles (project manager)
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3. Contacting Others

Contact during the submittal and selection process should be limited to the project manager at Mountainland, though contact with the jurisdictions to acquire background information is allowed. In order to maintain the fair and equitable treatment of everyone, consultants shall not unduly contact or offer gifts or gratuities to Mountainland, any board officer, or employee of Mountainland, users or selection committee members in an effort to influence the selection process or in a manner that gives the appearance of influencing the selection process. This prohibition applies before the RFQ is issued, as the project is developed, and extends through the award of an agreement. Failure to comply with this requirement may result in a disqualification in the selection process. Consultants should be aware that selection committee members will be required to certify that any contact they have had with any representative of the consultant was for informational purposes only and that no attempt to influence the selection process was made.

4. Project Submittals and Selection Schedule

The project schedule lists the important events, dates, times, and locations of meetings and submittals that must be met by the consultant. All required submittals must be delivered to, and be received by, Mountainland MPO previous to the date and time indicated in the project schedule. Submittals received after the specified time will not be accepted. Please allow adequate time for delivery. If using a courier service, the submitting firm is responsible for ensuring that delivery will be made directly to the required location. These dates and times for the selection team could change slightly but consultant deadline must be met to qualify.

If a meeting with the Mountainland project manager is desired, please email Chad Eccles at ceccles@mountainland.org to request an appointment for a pre-submittal online meeting to be held on Sept 29th or 30th.

Consultant Selection Schedule					
Event	Day	Date	Time	Place	
Request for Qualification Announcement Available	Thurs	24 Sept 2020	NA	www.mountainland.org /payson800s	
Advertise in Provo and SLC Newspapers	Sat	26 Sept 2020	NA	NA	
Pre-submittal Meetings	Tue/ Wed	29 Sept & 30 Sept 2020	Sign Up	Online meeting or by phone - schedule with Project Manager	
Request for Qualification Due	Mon	19 Oct 2020	5:00 pm	Emailed to: ceccles@mountainland.org	

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Short Listing by Selection Committee	Tues	27 Oct 2020	10:00 am	MAG Online meeting	
Interviews, if Applicable	Thurs	29 Oct 2020	10:00 am	MAG Online interview	
Announcement by phone on or before	Fri	30 Oct 2020	NA	NA	

5. Submittal Format

The RFQ is a **short** document that indicates the experience and qualifications of the firm, the project manager and other critical members of the team. It describes what talents their team brings to the project, how their knowledge of the subject will provide benefit to the process, how the team has been successful in the past and how that relates to this project. It should include information on similar projects that have been completed by the firm, project manager and other team members. Include the experience and special qualifications that are applicable to this project and/or are part of the project specific selection criteria. A write up on scope ideas for the project can also be included.

The submittal for the RFQ shall consist of no more than 10 single sided pages, as well as a cover sheet and a blank end sheet (double sided pages can be used but the total pages allowed would reduce to 5.) The submittal shall include a Past Performance and Reference Information section, a Management Plan, Statement of Qualifications, and any proposal information. Certifications as required are not counted in the page total. ALL SUBMITALLS WILL BE ELECTRONIC and emailed to the project manager at ceccles@mountainland.org.

5a. Statements of Qualifications

Consultants shall submit information about each team member regarding education, facilitation, collaboration, presentation, communication, and other pertinent skills necessary to be a productive team member. State the lead consultant firm and any sub-consultant firms experience and availability in supporting a project team. Provide firms capabilities such as specific and unique strengths of firm that show quality transportation planning abilities. This section shall contain no more than 3 single sided pages.

5b. Past Performance and References

Consultants shall submit a Past Performance and Reference Information section as part of their submittal for the RFQ. This section shall contain no more than 3 single sided pages. List at least 3 prior projects that show the experience needed to complete this project. Also, list all projects the consultant or any sub-consultants have worked on within the study area.

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For past projects provide the following information:

Point of Contact: Person who will be able to answer any customer satisfaction questions.
Phone Number: Phone number of the contact we will be surveying.
User Name: Name of Company / Institution that purchased the construction work.
Project Name: Name of the project.
Date Completed: Date of when the work was completed.
Address: Street, city and state where the work was performed.
Size: Size of project in dollars.
Duration: Duration of the project / construction in months.
Bid Duration: What the original bid for the project listed as the duration of the project.
Type: Type of the project (i.e.: corridor study, environmental work, etc.)
Project Information: Explain detail about the project and how your firm completed the project.

5c. Management Plan

Firms will be required to develop and submit a Management Plan section that consists of no more than 4 single sided pages. The Management Plan shall demonstrate how the lead consultant will manage their responsibilities and responsibilities of any sub-consultant, identify risks, and how risks will be mitigated. An organization chart showing the roles, responsibilities, and time dedicated by all pertinent decision-makers is a required part of the presentation and shall include a breakdown of the roles and responsibilities of the lead consultant and any sub-consultants. The lead consultant must perform work valued at not less than 50% of the total work, excluding specialized services, with its own staff.

Address project specific criteria, risks that have been identified by the RFQ and additional risks that the team has identified. State how those risks will be mitigated.

As part of the management plan include your proposed project schedule. Indicate critical dates and other information in sufficient detail for the selection committee to determine if the time frames are reasonable. The management plan should be concise yet contain sufficient information for evaluation by the selection committee.

CONSULTANT SELECTION

The selection shall be under the Value Based Selection method. The Request for Qualifications (RFQ) documents, including the submittal requirements and the selection criteria and schedule, will be available in electronic format on the Mountainland web site at www.mountainland.org/payson800s. For questions regarding this solicitation, please contact Chad Eccles at 801/229-3824.

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1. Selection Committee

The Selection Committee will be composed of individuals from MAG, UDOT, municipal staff from the city of Payson; and could include mayors, council, or planning commission members or administrative staff.

2a. Interviews

The selection committee can require interviews to be conducted with all firms who have met all of the requirements, but holds the right to decline holding interviews. If the committee decides to hold interviews, they may convene to develop a short list of firms to be invited to interviews. This evaluation will be made using the selection criteria noted below based on the information provided by the past performance/references, performance plan and statement of qualifications.

The purpose of the interview is to allow the firm to present its qualifications, past performance, management plan, schedule and general plan for accomplishing the project. It will also provide an opportunity for the selection committee to seek clarifications from the firm.

The proposed primary project management personnel, including the project manager, should be in attendance. The project manager is the firm's representative who has overall job authority, will be in attendance at all job meetings, and is authorized by the firm to negotiate and sign any and all change orders in the field, if necessary. Unless otherwise noted, the attendance of sub-consultants is at the discretion of the firm.

The method of presentation is at the discretion of the firm. The interviews will be held on the date and using the online method hosted by MAG as specified in the Project Schedule.

2b. Selection Criteria for VBS Professional Services

The following criteria will be used in ranking each of the teams. The team that is ranked the highest will represent the best value for the MPO. The criteria are not listed in any priority order. The selection committee will consider all criteria in performing a comprehensive evaluation of the proposal. Weights have been assigned to each criterion in the form of points.

- A. **MPO Past Performance Rating 10 Points** Each prime firm will be given a past performance rating. The rating will be based first on how well the firm did on past projects with the MPO. If a minimum of three MPO past performance ratings are not available a rating will be established using any MPO past performance ratings that are available, supplemented by references supplied by the firm at the time the Management Plans and RFQ are submitted.
- B. **Strength of Team 30 Points** Based on the RFQs, the interview, and management plan, the selection team shall evaluate the expertise and experience of the team and

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the project lead as it relates to this project in size, complexity, quality, duration, etc. Consideration will also be given to the strength brought to the team by critical consultants including how they were selected and the success the team has had in the past in similar projects.

- C. Project Management Approach **25 Points** Based on the information provided in the RFQ, the management plan and information presented in the interview the selection team shall evaluate how each team has planned to approach the project. The selection team will also evaluate the degree to which risks to the success of the project have been identified and a reasonable solution has been presented.
- D. Schedule **20 Points** The consultant's schedule will be evaluated as to how well it meets the objectives of the project. Unless other objectives are stated the shorter the duration that is evaluated to be feasible while achieving an appropriate design is preferred. The consultant shall identify in the RFQ the project schedule identifying major work items with start and stop dates that are realistic and critical with the sub-consultants and if they have reviewed and agreed to the schedule. The completion dates shown on the schedule will be used in the contract.
- E. Local Knowledge **15 Points** The consultant's knowledge of the local and regional plans for the area and their past involvement with jurisdictions in the area will be evaluated as to how well issues of the area are known.

TOTAL POSSIBLE POINTS: 100 POINTS

OTHER ITEMS

The awarded firm shall agree, complete, or certify compliance with the following items:

1. Fee Negotiation

Following selection of a consultant by the Selection Committee and prior to the award of the agreement, the MPO will negotiate the final agreement fee with the selected firm. Should the MPO be unable to agree to a satisfactory contract with the top ranked firm at a price that the MPO determines to be fair and reasonable to the MPO, discussions with that firm shall be formally terminated. Negotiations will then be undertaken with the second ranked firm. This process will be repeated until an agreement is reached or the MPO determines that it is in the best interest of the MPO to initiate a new selection process.

2. Form of Agreement

At the conclusion of negotiations, the selected consultant will be required to enter into an agreement using the standard MAG Professional Services Agreement.

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3. Required Completion and Acceptance Criteria:

Progress payments will be made for work in progress. Final invoice payment, shall be made after all of the work has been completed and the final estimate, project records, and documentation have been received and accepted by the Utah Department of Transportation as accurate and complete.

4. Applicable Federal and State Regulations:

The Consultant shall conform to all applicable state and federal regulations.

5. Debarment Certification:

Federal regulations require certification by prospective participants (including contractors, subcontractors, and principals) as to current history regarding debarment, eligibility, indictments, convictions, or civil judgments. The selected Consultant will be required to certify in accordance with contract Standard Terms and Conditions.

6. Licensure

The consultant shall comply with and require its sub-consultants to comply with the license laws of the State of Utah.

7. Disposition of RFQ

RFQ's become the property of Mountainland, are treated as privileged documents, and are disposed of according to department policies, Mountainland reserves the right to reject all submitted RFQ's. The RFQ of the successful consultant shall be open to public inspection for a period of one year after award of the contract. RFQ's of consultants who are not awarded contracts shall not be open to public inspection and will be destroyed once the contract is executed with another consultant. If the consultant selected for award has required in writing the nondisclosure of trade secrets and other proprietary data so identified, the Mountainland Project Manager shall examine the request in the RFQ to determine its validity prior to award of the contract. If the parties do not agree as to the disclosure of data in the contract, the project manager shall inform the consultant in writing what portion of the RFQ will be disclosed and that, unless the consultant withdraws the RFQ, it will be disclosed. If the consultant withdraws their RFQ, the consultant will not be awarded the contract.

8. Ownership of Documents

All tracings, plans, manuscripts, specifications, data, maps, reports, photos, etc. prepared or obtained by the consultant as a result of working on this contract, shall be delivered to and become the property of Mountainland.

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Payson 800 South Workscope

Objective and background: The city of Payson is experiencing tremendous growth pressures on its west and south quadrants including Utah Valley University announcing a satellite campus and MTECH wanting to build a campus and a high demand for housing density in the area. Due to these pressures the city wants to explore the feasibility of various alternatives and develop a plan and cost estimate to connect 800 South from where it currently ends west of the I-15 interchange to West Mountain and 5600 West to allow for greater connectivity and access from the west side of Payson. The intent is to look at each of the challenges of making this connection to develop the best and most cost-effective alternative through some difficult geography and barriers caused by railroad lines.

Task 1. Conduct an initial kickoff meeting with Payson City representatives, UTA, UDOT, Utah County, and MAG staff to accomplish the following goals:

- A. Review prior pertinent information: Transportation master plans, other studies, and identify any additional information needs.
- B. Propose appropriate Organization and lines of communication between consultant and client.
- C. Communicate to the consultant community values, priorities, and local issues.
- D. Identify key stakeholders that should be included.

Task 2. Review the study area for land use and infrastructure and gather socioeconomic data and review areas for potential current or future travel demand.

- A. Understand past, present, and future growth patterns for this area of Payson. Consider regional growth patterns and how this area connects and contributes to the broader area.
- B. Gather demographic and economic data with a focus on regional center development.
- C. Assess key origins and desired destinations and their connectivity.
- D. Gather railroad track usage and frequency by time of day.
- E. Document these findings.

Task 3. Develop a proposed plan to conduct public outreach to key stakeholders.

- A. The plan may include processes such as surveys, social media, public meetings, employer outreach, and community interaction. The objective is to get community feedback and suggestions for desired connections and key locations, suggested routes, and identify any social impacts.
- B. Discussions should be held with railroad operators to provide input to the process.
- C. Potential campus development from MTECH should be considered in the study.
- D. City zoning and potential development should be addressed.
- E. Address any time savings this connectivity would have on emergency response times.
- F. Partner with UDOT to ascertain their desire to participate in design and funding, and perhaps add this connection to the state system.
- G. Document these findings.

Task 4. Perform an analysis of possible routes which could feasibly connect 800 South to 5600 West, West Mountain, and SR-141 within the study area.

- A. The study should assess the least impactful environmental connection to cross Spring Creek and any lands deemed environmentally sensitive.
- B. Identify shortest possible span required to meet environmental concerns and prepare design alternatives for the crossing that also incorporates the railroad infrastructure needs.
- C. Provide a recommendation as to a cross section to accommodate travel demand.
- D. The analysis should make a determination as to whether at grade crossing would be adequate or if separation would be necessary.

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- E. Considerations for the route selection should include regional travel benefit, freight movement in the area, and the potential to expand public transit.
- F. Document these findings.

Task 5. Design of Potential Crossing

- A. The road and potential structure should be sized to accommodate current and near future estimated travel demand and the study should provide estimates of cost including any structural cost.
- B. The possibility of qualifying the crossing to be at grade should be considered.
- C. Right-of-way should be identified and land value estimates provided.
- D. Determinations as to access points or limits to private property access should be considered based on road classifications and capacity needs.
- E. Potential crossing or design and its impact on the existing railroad corridors need to be clearly defined. Innovative design that limits costs and preserves or enhances efficiencies are encouraged.
- F. Pedestrian and bicycle access facilities should also be incorporated into the design.
- G. Transit access and potential stops, either for bus or rail should be considered.

Task 6. Prepare a set of alternatives that could be used to select the desired outcome

This should include, at a minimum:

- A. At least three (3) sets of alternatives
- B. A look at future growth patterns and planning for transit capital projects. A review of MAG's Regional Transportation Plan and city transportation masterplans to provide suggestions or comments relative to current planning.
- C. Options that accommodate campus development
- D. Various crossing configurations
- E. Railroad alignment options
- F. Bike and Pedestrian options to access trail systems
- G. Transit stops and access for bus and rail.
- H. A look at new and innovative solutions which might meet the community's needs.

Task 7. Implementation - Prepare a clear and concise plan with immediate and future suggested steps to begin moving forward with the selected alternative. It should complement the city's transportation masterplans, MAG's Regional Transportation plan, and coordinate with UTA's South County Transit Study on proposed service capital projects, modes, and estimated travel demand levels.

This point in the study is where the consultant team prepares a summary and clear identification of preferred alternatives with project description and illustrated mapping to clearly articulate the vision that Payson City and citizen stakeholders, UDOT, UTA, and MAG get behind to begin the process, programming, and funding to move this project toward actual implementation. The materials created will be used to move toward the next steps for implementation.

Task 8. Present and review a draft plan at a Payson City Council and planning commission meetings.

- A. Provide 10 bound color copies of the final report.
- B. Provide a pdf digital version of the report.

Estimated study duration: 9 months
Estimated study budget: \$125,000

Prepared by: Chad Eccles, MAG
ceccles@mountainland.org 801-229-3824

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FEDERAL CLAUSES

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Authority and the Contractor acknowledge and agree that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the federal government, the federal government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Authority, the Contractor or any other party (whether or not a party to the Contract) pertaining to any matter resulting from the Contract. The Contractor agrees to include the above clause in each subcontract or purchase order financed in whole or in part with federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the Subcontractor or Supplier who will be subject to its provisions.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC §3801, et seq. and United States Department of Transportation regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to the Contract. Upon execution of the underlying Contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FTA assisted project for which the Work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious or fraudulent claim, statement, submission, or certification, the federal government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the federal government deems appropriate. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission or certification to the federal government under a contract connected with a project that is financed in whole or in part with federal assistance originally awarded by FTA under the authority of 49 USC §5307, the federal government reserves the right to impose the penalties of 18 USC §1001 and 49 USC §5307(n)(1) on the Contractor, to the extent the federal government deems appropriate. The Contractor agrees to include the above two clauses in each subcontract or purchase order financed in whole or in part with federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the Subcontractor or Supplier who will be subject to the provisions.

ACCESS TO RECORDS AND REPORTS

The Contractor agrees to provide the Authority, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. The Contractor also agrees, pursuant to 49 CFR 633.17 to provide the FTA Administrator or his authorized representatives including any project management oversight auditor access to the Contractor's records and construction sites pertaining to a major capital project (defined at 49 USC §5302(a)(1)), which is receiving federal financial assistance through the programs described at 49 USC §§5307, 5309 or 5311. The Contractor further agrees to include in all of its subcontracts and purchase orders under the Contract a provision to the effect that the Subcontractor or Supplier agrees that the Authority, the United States Department of Transportation and the Comptroller General of the United States, the project management oversight auditor, or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and other records of the Subcontractor or Supplier.

FEDERAL CHANGES

The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the Authority and the FTA, as they may be amended or promulgated from time to time during the term of the Contract. The Contractor's failure to so comply shall constitute a material breach of the Contract.

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CIVIL RIGHTS REQUIREMENTS

(1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) **Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract:

(a) **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq. (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be 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 selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) **Disabilities** - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary, to identify the affected parties

DISADVANTAGED BUSINESS ENTERPRISES (DBE)

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is ___ %. A separate contract goal [of ___ % DBE participation has] [has not] been established for this procurement.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this

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contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Utah Transit Authority deems appropriate. **Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph** (see 49 CFR 26.13(b)).

c. *{If a separate contract goal has been established, use the following}* Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following **[concurrent with and accompanying sealed bid] [concurrent with and accompanying an initial proposal]**:

1. The names and addresses of DBE firms that will participate in this contract;
2. A description of the work each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
5. Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts to do so.

[Bidders][Offerors] must present the information required above as a matter of responsiveness (see 49 CFR 26.53(3)).

{If no separate contract goal has been established, use the following} The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. **Prompt Payment and Return of Retainage.** The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the Utah Transit Authority. In addition, is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

e. The contractor must promptly notify Utah Transit Authority, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of Utah Transit Authority.

INCORPORATION OF FTA TERMS

All contractual provisions required by the United States Department of Transportation, as set forth in the most recent edition and revisions of FTA Circular 4220.1F, "Third Party Contracting Guidance," are incorporated by reference into the Contract Documents. All FTA mandated terms shall take precedence over other conflicting terms, if any in the Contract Documents. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Authority requests that would cause the Authority to be in violation of any FTA terms and conditions.

TERMINATION

(For contracts over \$10,000.00)

a. **Termination for Convenience (General Provision)** The (Recipient) may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor

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shall promptly submit its termination claim to (Recipient) to be paid the Contractor. If the Contractor has any property in its possession belonging to the (Recipient), the Contractor will account for the same, and dispose of it in the manner the (Recipient) directs.

b. Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the (Recipient) may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the (Recipient) that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the (Recipient), after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) The (Recipient) in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to (Recipient)'s satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from (Recipient) setting forth the nature of said breach or default, (Recipient) shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude (Recipient) from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that (Recipient) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by (Recipient) shall not limit (Recipient)'s remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

The Contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals (as defined at 49 CFR 29.995) or affiliates (as defined at 49 CFR 29.905) are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any subcontract or purchase order that it enters into. *(A certification is to be submitted with each bid or offer of \$25,000 or more.)*

BREACHES AND DISPUTE RESOLUTION

Disputes – Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of The Authority. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the authorized Authority Representative. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the authorized Authority Representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute – Unless otherwise directed by The Authority, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages – Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for

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damages therefore shall be made in writing to such other party within reasonable time after the first observance of such injury or damage.

Remedies – Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Authority and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which The Authority is located.

Rights and Remedies – The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by laws. No action or failure to act by The Authority or Authority's authorized representative or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

LOBBYING

Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*]

- Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

- Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.

Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.- Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

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APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(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 an 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 making lobbying contacts to 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 [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*.)]

(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 subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was 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 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

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CLEAN AIR REQUIREMENTS

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §§ 7401, et seq. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to the FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

CLEAN WATER REQUIREMENTS

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §1251, et seq. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate Regional Office of the United States Environmental Protection Agency. The Contractor also agrees to include these requirements in each subcontract or purchase order exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

FLY AMERICA REQUIREMENTS

The Contractor agrees to comply with 49 USC §40118 and 41 CFR Part 301-10, which provide that contractors are required to use United States -Flag air carriers for federally financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by 49 USC §40118 and CFR Part 301-10.

ENERGY CONSERVATION REQUIREMENTS

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

SEAT BELT USE

In accordance with Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, the Recipient is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned, rented, or personally operated vehicles, and to include this provision in any third party contracts, third party subcontracts, or sub-agreements involving the Project.

DISTRACTED DRIVING, INCLUDING TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. § 402 note, the Recipient is encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messages while using an employer supplied electronic device and driving a vehicle you own or rent, a company owned, rented or leased vehicle, a privately owned vehicle when performing any company work on behalf of the project or any vehicle on or off duty. This provision is to be included in any third party contracts, third party subcontracts or sub-agreements at each tier financed with federal funds.