



Utah Transit Authority

Board of Trustees

REGULAR MEETING AGENDA

669 West 200 South
Salt Lake City, UT 84101

Wednesday, February 12, 2025

9:00 AM

FrontLines Headquarters

The UTA Board of Trustees will meet in person at UTA FrontLines Headquarters (FLHQ) 669 W. 200 S., Salt Lake City, Utah.

For remote viewing, public comment, and special accommodations instructions, please see the meeting information following this agenda.

1. **Call to Order and Opening Remarks** Chair Carlton Christensen
2. **Pledge of Allegiance** Chair Carlton Christensen
3. **Safety First Minute** Kim Shanklin
4. **Public Comment** Chair Carlton Christensen
5. **Consent** Chair Carlton Christensen
 - a. Approval of January 29, 2025 Board Meeting Minutes
6. **Reports**
 - a. Legislative Update and Potential Action on Proposed Legislation Adam Gardiner
 - b. Executive Director Report Jay Fox
 - 2024 Ridership Report - Jay Fox
 - UTA Employee Recognition - Officer Shaun Wihongi
 - c. Strategic Plan Minute: Moving Utahns to a Better Quality of Life Jay Fox
 - d. Financial Report - Preliminary December 2024 Viola Miller
Brad Armstrong
Greg Andrews
 - e. Investment Report - Fourth Quarter 2024 Brian Reeves

7. Resolutions

- a. R2025-02-02 - Resolution Authorizing the Amendment of Previously Approved Grant Awards and the Execution of Grant Agreements for Specified Projects
- Tracy Young
Gregg Larsen

8. Contracts, Disbursements and Grants

- a. Contract: Memorandum of Agreement for UTA Legal Counsel and Amendment One to the Memorandum of Agreement (Utah Attorney General's Office)
- David Wilkins
Mike Bell
- b. Contract: Construction Services Agreement for UVX 900 East Station (Calvin L Wadsworth Construction Company, LLC)
- Jared Scarbrough
- c. Change Order: Mid-Valley Bus Rapid Transit (MVX) Construction Change Order 6 - Station Amenity Purchase Authorization (Stacey & Witbeck, Inc.)
- Jared Scarbrough
- d. Change Order: On-Call Infrastructure Maintenance Contract Task Order 25-001 - 2025 Project Manager and Construction Manager Fees (Stacey and Witbeck, Inc.)
- Jared Scarbrough
Jacob Wouden
- e. Change Order: Vehicle Program Management Consultant Services Contract Modification 8 for Increased Services (Mott MacDonald, LLC)
- Kyle Stockley
- f. Change Order: On-Demand Technologies Master Service Agreement Service Order 05, Amendment 02 - Increased Service Hours in South Salt Lake and South Davis Counties (River North Transit, LLC / Via)
- Hal Johnson
Shaina Quinn
- g. Pre-Procurements
- Todd Mills
- Bus Electric Vehicle Charger Maintenance Contract
 - Bond Underwriting Services Contracts
 - Inventory Parts Auto-Purchase-Order Contracts

9. Discussion Items

- a. Constituent and Customer Service - 2024 Annual Report
- Nichol Bourdeaux
Cindy Medford

- 10. Other Business** Chair Carlton Christensen
- a. Next Meeting: Wednesday, February 26th, 2025 at 9:00 a.m.
- 11. Closed Session** Chair Carlton Christensen
- a. Strategy Session to Discuss Collective Bargaining and the Purchase, Exchange, or Lease of Real Property
- 12. Open Session** Chair Carlton Christensen
- a. R2025-02-01 - Resolution Authorizing Additional Capital Contribution of Funds in the Jordan Valley Transit Oriented Development Paul Drake
- 13. Adjourn** Chair Carlton Christensen

Meeting Information:

- Special Accommodation: Information related to this meeting is available in alternate format upon request by contacting adacompliance@rideuta.com or (801) 287-3536. Request for accommodations should be made at least two business days in advance of the scheduled meeting.
- Meeting proceedings may be viewed remotely by following the meeting portal link on the UTA Public Meeting Portal - <https://rideuta.legistar.com/Calendar.aspx>
- In the event of technical difficulties with the remote connection or live-stream, the meeting will proceed in person and in compliance with the Open and Public Meetings Act.
- Public Comment may be given live during the meeting by attending in person at the meeting location OR by joining the remote Zoom meeting below.
 - o Use this link - https://rideuta.zoom.us/webinar/register/WN_ZETFGsTtRVaZEL40RSHOUQ and follow the instructions to register for the meeting (you will need to provide your name and email address).
 - o Sign on to the Zoom meeting through the URL provided after registering
 - o Sign on 5 minutes prior to the meeting start time.
 - o Use the "raise hand" function in Zoom to indicate you would like to make a comment.
 - o Comments are limited to 3 minutes per commenter.
- Public Comment may also be given through alternate means. See instructions below.
 - o Comment online at <https://www.rideuta.com/Board-of-Trustees>
 - o Comment via email at boardoftrustees@rideuta.com
 - o Comment by telephone at 801-743-3882 option 5 (801-RideUTA option 5) – specify that your comment is for the board meeting.
 - o Comments submitted before 2:00 p.m. on Tuesday, February 11th will be distributed to board members prior to the meeting.
- Meetings are audio and video recorded and live-streamed.
- Members of the Board of Trustees and meeting presenters will participate in person, however trustees may join electronically as needed with 24 hours advance notice.
- Motions, including final actions, may be taken in relation to any topic listed on the agenda.



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
THROUGH: Jana Ostler, Board Manager
FROM: Jana Ostler, Board Manager

TITLE:

Approval of January 29, 2025 Board Meeting Minutes

AGENDA ITEM TYPE:

Minutes

RECOMMENDATION:

Approve the minutes of the January 29, 2025, Board of Trustees meeting

BACKGROUND:

A meeting of the UTA Board of Trustees was held in person at UTA Frontlines Headquarters and broadcast live via the UTA Public Meeting Web Portal on Wednesday January 29, 2025 at 9:00 a.m. Minutes from the meeting document the actions of the Board and summarize the discussion that took place in the meeting. A full audio recording of the meeting is available on the [Utah Public Notice Website](https://www.utah.gov/pmn/sitemap/notice/966303.html) <<https://www.utah.gov/pmn/sitemap/notice/966303.html>> and video feed is available through the [UTA Public Meeting Portal](https://rideuta.legistar.com/Calendar.aspx) <<https://rideuta.legistar.com/Calendar.aspx>>.

ATTACHMENTS:

1. 2025-01-29_BOT_Minutes_unapproved



Utah Transit Authority

Board of Trustees

MEETING MINUTES - Draft

669 West 200 South
Salt Lake City, UT 84101

Wednesday, January 29, 2025

9:00 AM

FrontLines Headquarters

Present: Chair Carlton Christensen
Trustee Beth Holbrook
Trustee Jeff Acerson

Also attending were UTA staff and interested community members.

1. Call to Order and Opening Remarks

Chair Carlton Christensen welcomed attendees and called the meeting to order at 9:00 a.m.

2. Pledge of Allegiance

Attendees recited the Pledge of Allegiance.

3. Safety First Minute

Jay Fox, UTA Executive Director, delivered a brief safety message.

4. Public Comment

In Person/Virtual Comment

No in person or virtual comment was given.

Online Comment

No online comment was received.

5. Consent

a. Approval of January 15, 2025 Board Meeting Minutes

A motion was made by Trustee Holbrook, and seconded by Trustee Acerson, to approve all items on the Consent Agenda.

The motion carried by a unanimous vote.

b. 2024 Compensation Structure End of Year Report

A motion was made by Trustee Holbrook, and seconded by Trustee Acerson, to approve all items on the Consent Agenda.

The motion carried by a unanimous vote.

6. Reports

a. Legislative Update and Potential Action on Proposed Legislation

Adam Gardiner, Principal with ASG Consulting, Inc., expressed appreciation to legislators for including exemption language for UTA in House Bill 309 Wildlife Amendments (Representative Snyder) and bills on collective bargaining sponsored by Senator Hinkins and Representative Teuscher.

Gardiner reviewed provisions in Senate Bill 174 Transit and Transportation Governance Amendments (Senator Harper), Senate Bill 26 Housing and Transit Reinvestment Zone Amendments (Senator Harper), and House Bill 229 Transportation Funds Amendments (Representative Christofferson) and recommended the board express public support for these pieces of legislation.

A motion was made by Trustee Acerson, and seconded by Trustee Holbrook, to support S.B. 174, S.B. 26, and H.B. 229, as presented.

The motion carried by a unanimous vote.

b. Executive Director Report

- **Executive Director Team Award - Finance School Instructors**
- **UTA Recognition - 2024 Transit Riders Choice Award**

Executive Director Team Award - Finance School Instructors

Jay Fox was joined by Viola Miller, UTA Chief Financial Officer.

Miller recognized the UTA finance team for their work on the agency's "Finance School" initiative.

UTA Recognition - 2024 Transit Riders Choice Award

Jay Fox was joined by Nichol Bourdeaux, UTA Chief Planning & Engagement Officer.

Bourdeaux highlighted the customer service staff who were honored with the 2024 Transit Riders Choice Award.

Ski Service Questions

Jay Fox noted the questions on ski service posed by the public in the January 15, 2025, board meeting would be addressed during the ridership report in the February 12, 2025, board meeting.

c. Strategic Plan Minute: Building Community Support through Community Service

Jay Fox highlighted the enterprise strategy team's participation in community service

projects.

d. Capital Program Report - Fourth Quarter 2024

David Hancock, UTA Chief Capital Services Officer, was joined by Daniel Hofer, UTA Director of Capital Programs & Support.

Staff reviewed progress on the capital program during the fourth quarter of 2024, including budget spend down and five-year financial trends on project delivery for the 5-year Capital Plan. They also highlighted major project activities in 2024 and discussed budget activities for the first quarter of 2025.

Discussion ensued. Questions on under-spending, improvements in budget projection accuracy, Utah Department of Transportation project delivery trends, grade crossing program, and Lehi pedestrian bridge improvements were posed by the board and answered by staff.

The board recommended sharing the agency's successes in project delivery more broadly. Jay Fox requested staff include information on five-year financial trends for major project delivery in future presentations.

7. Resolutions

a. R2025-01-04 - Resolution Approving the Title VI Service and Fare Equity Analysis for April 2025 Change Day

Russ Fox, UTA Director of Planning, was joined by Megan Waters, UTA Community Engagement Director, and Alex Beim, UTA Manager of Long-Range Strategic Planning.

Staff reviewed the final service and fare changes planned for April 2025, along with the related public engagement efforts and Title VI analysis results.

Discussion ensued. Questions on proposed changes in Davis County and implementation of new service and how it relates to service restoration plans were posed by the board and answered by staff. The board suggested reviewing the successes and opportunities for improvement discovered during the UVX transition to paid service, including increased marketing of the low-income eligible FAREPAY program, particularly in areas that will be impacted by service changes.

A motion was made by Trustee Holbrook, and seconded by Trustee Acerson, that Resolution R2025-01-04 - Resolution Approving the Title VI Service and Fare Equity Analysis for April 2025 Change Day be approved as presented.

The motion carried by the following vote:

Aye: Chair Christensen, Trustee Holbrook, and Trustee Acerson

8. Contracts, Disbursements and Grants**a. Contract: UTA Retirement Plan Pension Administration Services (Milliman, Inc.)**

Ann Green-Barton, UTA Chief People Officer, was joined by Lorin Simpson, UTA Acting Director of Total Rewards.

Staff requested the board approve a contract with Milliman, Inc. for retirement plan administration services. The contract has a one-year base term with two one-year options. The total contract value, including the option years, is \$1,324,050.

Discussion ensued. A question on the contract term was posed by the board and answered by staff.

A motion was made by Trustee Acerson, and seconded by Trustee Holbrook, that the contract with Milliman, INC. for UTA Retirement Plan Pension Administration Services be approved as presented.

The motion carried by a unanimous vote.

b. Contract: 2025 Support Fleet Order (Tony Divino Toyota)

David Hancock was joined by Jesse Rogers, UTA Bus Vehicle Procurement Project Manager.

Staff requested the board approve a \$1,588,936 contract with Tony Divino Toyota for the purchase of 44 non-revenue support fleet vehicles.

Discussion ensued. A question on the nature of the support vehicles was posed by the board and answered by staff.

A motion was made by Trustee Holbrook, and seconded by Trustee Acerson, that the contract with Tony Divino Toyota for 2025 Support Fleet Order be approved as presented.

The motion carried by a unanimous vote.

c. Contract: 2025 Support Fleet Order (Ken Garff West Valley Ford, LLC)

David Hancock was joined by Jesse Rogers and Trice Beatty, UTA Manager of Non-Revenue Vehicle Performance & Maintenance.

Staff requested the board approve a \$2,834,031 contract with Ken Garff West Valley Ford, LLC for the purchase of 54 non-revenue support fleet vehicles.

Discussion ensued. A question on the non-revenue vehicle fleet rotation strategy was posed by the board and answered by staff.

A motion was made by Trustee Acerson, and seconded by Trustee Holbrook, that the contract with Ken Garff West Valley Ford, LLC for 2025 Support Fleet Order be approved as presented.

The motion carried by a unanimous vote.

d. **Contract: Depot District Compressed Natural Gas Fueling Station Operations and Maintenance Agreement (Trillium Transportation Fuels, LLC)**

Andres Colman, UTA Regional General Manager - Salt Lake Business Unit, was joined by Dean Klebenow, UTA Manager of Vehicle Performance & Maintenance, and Christopher Eisert, UTA Bus Vehicle Maintenance Supervisor.

Staff requested the board approve a \$641,584, two year contract with Trillium Transportation Fuels, LLC for:

- 1) operations and maintenance service support for the Compressed Natural Gas (CNG) fuel monitoring system, and
- 2) bus fueling dispensers for two fueling lanes at the Depot District facility.

The contract has a two-year base term with three additional one-year options. Exercise of the option years will require additional board approval.

Discussion ensued. A question on CNG market conditions was posed by the board and answered by staff.

A motion was made by Trustee Holbrook, and seconded by Trustee Acerson, that the contract with Trillium Transportation Fuels, LLC for Depot District Compressed Natural Gas Fueling Station Operations and Maintenance be approved as presented.

The motion carried by a unanimous vote.

e. **Contract: Geographic Information Systems (GIS) Software (Environmental Systems Research Institute "ESRI")**

Daniel Hofer was joined by Sumerset Ellis, UTA GIS System Administration Supervisor.

Staff requested the board approve a \$413,311.69 contract with Environmental Systems Research Institute (ESRI) for GIS software. The contract has a five-year term that is contingent on renewal of the state contract with ESRI.

A motion was made by Trustee Acerson, and seconded by Trustee Holbrook, that the contract with Environmental Systems Research Institute (ESRI) for Geographic Information Systems (GIS) Software be approved as presented.

The motion carried by a unanimous vote.

f. **Change Order: Ratification of Traction Power Substations (TPSS) Rehabilitation Change Order #015 -Repair and Replacement of Equipment (C3M Power Systems, LLC)**

David Hancock was joined by David Wilkins, Assistant Attorney General.

Prior to general discussion on ratification of Agenda Items 8.f., 8.g., and 8.h., Wilkins spoke about the legal meaning of ratification and informed the Board of the statutory approval requirements for contracts, noting that statute does not prohibit ratifications. Wilkins informed the board they had the option to ratify a change order or authorize disbursement of payment to the contractor without ratification.

Hancock requested the board ratify a \$720,887 change order to the contract with C3M Power Systems, LLC for the repair and replacement of equipment that rated poorly in condition assessments and/or onsite testing. The total contract value, including the change order, is \$47,373,460.54.

Discussion ensued. Questions on process and project scoping improvements were posed by the board and answered by Hancock.

A motion was made by Trustee Holbrook, and seconded by Trustee Acerson, to ratify authorization for work completed prior to board approval and approve Change Order Number 15 to the Traction Power Substations (TPSS) Rehabilitation contract with 3CM Power Systems, LLC for repair and replacement of equipment, as presented.

The motion carried by a unanimous vote.

g. Change Order: Ratification of 900 E. UVX Station Design Modification 1 (Horrocks Engineers, Inc.)

David Hancock was joined by David Wilkins.

Hancock requested the board ratify a \$102,055 change order to the contract with Horrocks Engineers, Inc. for design modifications on the UVX 900 East Station. The total contract value, including the change order, is \$590,673.

A motion was made by Trustee Acerson, and seconded by Trustee Holbrook, to ratify Change Order 1 to the 900 E. UVX Station Design Contract with Horrocks Engineers, Inc. for design modifications, as presented.

The motion carried by a unanimous vote.

h. Change Order: Ratification of Unauthorized Light Rail Vehicle 1137 Roof Repairs through Modification No. 2 (Siemens Mobility, Inc.)

Patrick Preusser, UTA Chief Operating Officer, was joined by Bryan Sawyer, UTA Director of Fleet Engineering, and Ryan Gardner, UTA Fleet Engineering Supervisor.

Staff requested the board ratify a \$271,227 change order to the contract with Siemens Mobility, Inc. for roof repairs made to light rail vehicle 1137. Staff explained the vehicle was in an accident and the roof repairs were not identified in the initial vehicle damage

assessment. The roof repairs were subsequently made by Siemens without formal authorization from UTA and Siemens is seeking compensation. The total contract value, including the change order, is \$1,774,477.

Discussion ensued. Clarifying questions on the occurrence were posed by the board and answered by staff.

A motion was made by Trustee Holbrook, and seconded by Trustee Acerson, to ratify authorization for work completed prior to board approval and approve Change Order 2 to the Light Rail Vehicle 1137 Roof Repairs contract with Siemens Mobility, Inc., for repairs performed, as presented.

The motion carried by a unanimous vote.

Chair Christensen called for a recess at 10:53 a.m.

The meeting reconvened at 11:03 a.m.

9. Budget and Other Approvals

a. TBA2025-01-01 Technical Budget Adjustment - 2025 Operating Budget Move of Rail Parts Supervisors and Clerks from Supply Chain to Rail Departments

Viola Miller was joined by Patrick Preusser.

Staff reviewed the technical budget adjustment, which moves the budget for Rail Parts Supervisors and Parts Clerks from the Supply Chain Department to various rail departments. The \$1,900,014 transfer is net neutral on the budget.

Discussion ensued. Questions on the management intent for the alignment of work and inventory control were posed by the board and answered by staff.

A motion was made by Trustee Acerson, and seconded by Trustee Holbrook, that TBA2025-01-01 Technical Budget Adjustment - 2025 Operating Budget Move of Rail Parts Supervisors and Clerks from Supply Chain to Rail Departments be approved as presented.

The motion carried by a unanimous vote.

b. International Travel to Montreal, Quebec, Canada for Ali Oliver

Patrick Preusser was joined by Ali Oliver, UTA Director of Operations Service Delivery.

Staff requested approval for Ali Oliver to travel to Montreal, Quebec, Canada to attend a five-day training course provided by CSched on the fundamentals of bus scheduling.

Discussion ensued. A question on travel costs was posed by the board and answered by staff.

A motion was made by Trustee Holbrook, and seconded by Trustee Acerson, that this international travel request be approved.

The motion carried by a unanimous vote.

10. Discussion Items

a. Service Design Standards

Russ Fox was joined by Eric Callison, UTA Manager of Service Planning.

Staff provided a comprehensive overview of UTA's service design standards, including overall standard objectives, benefits, and key considerations of different aspects of service design. They discussed the service planning process, reviewed UTA service types by mode, outlined service tiers, and reviewed transit service standards both in general and by mode. Staff also addressed transit stop placement considerations and Title VI compliance.

Discussion ensued and centered on inclusion of service design standards in municipal guidelines for transit implementation, review of cities' transportation plans, service planning decision prioritization, corridor preservation, transit planning education opportunities, bikeshare concepts, bus stop land acquisitions, and customer experience (i.e., communication and education).

11. Other Business

- a. Next Meeting: Wednesday, February 12, at 9:00 a.m.

12. Adjourn

A motion was made by Trustee Acerson, and seconded by Trustee Holbrook, to adjourn the meeting. The motion carried by a unanimous vote and the meeting adjourned at 12:01 p.m.

Transcribed by Cathie Griffiths
Executive Assistant to the Board Chair
Utah Transit Authority

This document is not intended to serve as a full transcript as additional discussion may have taken place; please refer to the meeting materials or audio located at <https://www.utah.gov/pmn/sitemap/notice/966303.html> for entire content. Meeting materials, along with a time-stamped video recording, are also accessible at https://rideuta.granicus.com/player/clip/344?view_id=1&redirect=true.

This document along with the digital recording constitute the official minutes of this meeting.

Approved Date:

Carlton J. Christensen
Chair, Board of Trustees



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
THROUGH: Jay Fox, Executive Director
FROM: Adam Gardiner, Principal, ASG Consulting, INC.
PRESENTER(S): Adam Gardiner, Principal, ASG Consulting, INC.

TITLE:

Legislative Update and Potential Action on Proposed Legislation

AGENDA ITEM TYPE:

Report

RECOMMENDATION:

Informational report for discussion. Make motions regarding UTA positions on Legislation as needed.

BACKGROUND:

The Utah State Legislature is in session until March 7, 2025. Lawmakers propose and discuss legislation that impacts or is of interest to the Utah Transit Authority.

DISCUSSION:

Adam Gardiner, Principal with ASG Consulting, will give a report on transit-related issues before the Utah Legislature and may make recommendations that the board vote to support or oppose specific proposed legislation.

ATTACHMENTS:

None



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
FROM: Jay Fox, Executive Director
PRESENTER(S): Jay Fox, Executive Director

TITLE:

Executive Director Report

- 2024 Ridership Report - Jay Fox
- UTA Employee Recognition - Officer Shaun Wihongi

AGENDA ITEM TYPE:

Report

RECOMMENDATION:

Informational report for discussion

DISCUSSION:

Jay Fox, Executive Director, will provide the following:

- 2024 Ridership Report (Jay Fox)
- UTA Employee Recognition - Officer Shaun Wihongi (Patrick Preusser, Dalan Taylor)



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
THROUGH: Jay Fox, Executive Director
FROM: Jay Fox, Executive Director
PRESENTER(S): Jay Fox, Executive Director

TITLE:

Strategic Plan Minute: Moving Utahns to a Better Quality of Life

AGENDA ITEM TYPE:

Report

RECOMMENDATION:

Informational report for discussion

BACKGROUND:

At the end of 2022, UTA adopted its 2022-2030 Strategic Goals and Objectives. The strategic minute provides an update on one of the five UTA strategic priorities - Quality of Life, Customer Expectations, Organizational Excellence, Community Support, and Economic Return.

DISCUSSION:

Our Quality of Life strategic pillar focuses on improving quality of life for our employees and our community members. In 2024 our Bus Service units set a strategic initiative in Moving Utahns to a Better Quality of Life pillar to provide assault awareness and de-escalation training. This initiative reflects our dedication to enhancing the well-being and safety of our employees and the broader community. This strategic minute will highlight the results of the Operations strategic initiative.

ALTERNATIVES:

N/A

FISCAL IMPACT:

N/A

ATTACHMENTS:

None



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
THROUGH: Jay Fox, Executive Director
FROM: Viola Miller, Chief Financial Officer
PRESENTER(S): Viola Miller, Chief Financial Officer
Brad Armstrong, Director Budget & Financial Strategy
Greg Andrews, Senior Capital Budget Analyst

TITLE:

Financial Report - Preliminary December 2024

AGENDA ITEM TYPE:

Report

RECOMMENDATION:

Informational report for discussion

BACKGROUND:

The Board of Trustees Policy No. 2.1, Financial Management, directs the Chief Financial Officer to present monthly financial statements stating the Authority's financial position, revenues, and expense to the Board of Trustees as soon as practical with monthly and year-to-date budget versus actual reports to be included in the monthly financial report. The preliminary December 2024 Monthly Financial Statements have been prepared in accordance with the Financial Management Policy and are being presented to the Board. Also provided is the monthly Board Dashboard which summarizes key information from the preliminary December 2024 Monthly Financial Statements.

DISCUSSION:

At the February 12, 2025, meeting, the Chief Financial Officer will review the Board Dashboard key items, passenger revenues, sales tax collections, and operating expense variances and receive questions from the Board of Trustees. There will also be a review the status of capital projects.

Note: UTA is in the process of closing the 2024 financial books, which typically takes several months after the close of the fiscal year ending December 31. The financial results for December, as a result, are presented in this meeting as preliminary in nature. Final results for 2024 will be presented at a later Board meeting after

the year-end close is completed and results have been reviewed by UTA's external auditors.

ALTERNATIVES:

n/a

FISCAL IMPACT:













n/a

ATTACHMENTS:

- Preliminary 2024 Board Dashboard
- Preliminary 2024 Monthly Financial Statements

Utah Transit Authority

Preliminary Board Dashboard: Dec 31, 2024

Financial Metrics	Dec Actual	Dec Budget	Fav / (Unfav)	%	YTD Actual	YTD Budget	Fav / (Unfav)	%
Sales Tax (Nov '24 mm \$)	\$ 37.8	\$ 42.7	\$ (4.95)	 -11.6%	\$ 447.0	\$ 446.1	\$ 0.89	 0.2%
Fare Revenue (mm)	\$ 3.6	\$ 3.5	\$ 0.07	 2.1%	\$ 39.0	\$ 38.0	\$ 1.03	 2.7%
Operating Exp (mm)	\$ 35.8	\$ 36.1	\$ 0.39	 1.1%	\$ 416.0	\$ 425.5	\$ 9.52	 2.2%
Subsidy Per Rider (SPR)	\$ 10.46	\$ 12.06	\$ 1.60	 13.3%	\$ 9.31	\$ 10.78	\$ 1.47	 13.6%
UTA Diesel Price (\$/gal)	\$ 2.37	\$ 4.03	\$ 1.66	 41.2%	\$ 2.58	\$ 4.03	\$ 1.45	 36.0%
Operating Metrics	Dec Actual	Dec-23	F / (UF)	%	YTD Actual	YTD 2023	F / (UF)	%
Ridership (mm)	3.08	2.82	0.3	 9.2%	40.48	35.06	5.4	 15.5%
Energy Cost by Type (Monthly Avg YTD)								
	Diesel Bus (Cost per Mile)				\$ 0.54			
	Diesel CR (Cost per Mile)				\$ 4.52			
	Unleaded Gas (Cost per Mile)				\$ 0.37			
	CNG (Cost per Mile)				\$ 0.36			
	Bus Propulsion Power (Cost per Mile)				\$ 0.60			
	TRAX Propulsion Power (Cost per Mile)				\$ 0.80			

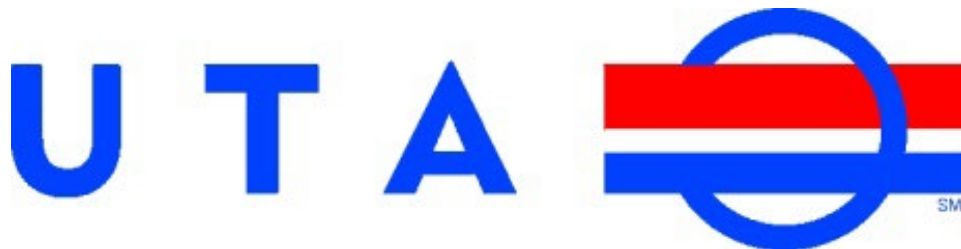
"Sales Tax" lists the amount of sales tax revenue received for the month listed in bold. All other data reflects the month listed in the table title.

Utah Transit Authority

Financial Statement

(Unaudited)

December 31, 2024



KEY ITEM REPORT
(UNAUDITED)
As of December 31, 2024

EXHIBIT 1-1

	2024 YTD ACTUAL	2024 YTD BUDGET	VARIANCE FAVORABLE (UNFAVORABLE)	% FAVORABLE (UNFAVORABLE)
1 Operating Revenue	\$ (41,101,285)	\$ (40,380,594)	\$ 720,691	2%
2 Operating Expenses	415,986,831	425,511,426	9,524,596	2%
3 Net Operating Income (Loss)	(374,885,546)	(385,130,833)	10,245,287	3%
4 Capital Revenue	(38,290,432)	(115,024,000)	(76,733,568)	-67%
5 Capital Expenses	159,370,239	230,433,000	71,062,761	31%
6 Net Capital Income (Loss)	(121,079,807)	(115,409,000)	(5,670,807)	-5%
7 Sales Tax	(499,507,697)	(493,670,000)	5,837,697	1%
8 Other Revenue	(140,341,704)	(106,356,250)	33,985,454	32%
9 Debt Service	81,731,622	76,612,710	(5,118,912)	-7%
10 Sale of Assets	(605,141)	-	605,141	
11 Net Non-Operating Income (Loss)	558,722,920	523,413,540	35,309,380	7%
12 Contribution to Cash Balance	\$ 62,757,567	\$ 22,873,708	\$ 39,883,859	-174%
13 Amortization	9,013,833			
14 Depreciation	134,984,604			
15 Total Non-cash Items	\$ 143,998,437			

STATISTICS

RIDERSHIP

2023 YE Actual	<u>Dec 2024</u>	<u>Dec 2023</u>	<u>Difference</u>	<u>2024 YTD</u>	<u>2023 YTD</u>	<u>Difference</u>
16 35,059,930	3,080,041	2,821,195	258,846	40,478,945	35,059,930	5,419,015

OPERATING SUBSIDY PER RIDER -

	SPR
17 Net Operating Expense	\$ 415,986,831
18 Less: Passenger Revenue	- (39,009,285)
19 Subtotal	376,977,546
20 Divided by: Ridership	÷ 40,478,945
21 Subsidy per Rider	<u>\$ 9.31</u>

SUMMARY FINANCIAL DATA
(UNAUDITED)
As of December 31, 2024

EXHIBIT 1-2

BALANCE SHEET

	12/31/2024	12/31/2023	Change December
CURRENT ASSETS			
1 Cash	\$ 25,832,499	\$ 21,096,914	22%
2 Investments (Unrestricted)	341,255,192	495,809,149	-31%
3 Investments (Restricted)	136,380,192	82,166,000	66%
4 Receivables	128,207,270	130,177,980	-2%
5 Receivables - Federal Grants	796,305	3,872,754	-79%
6 Inventories	47,475,211	44,517,295	7%
7 Prepaid Expenses	2,708,618	1,423,734	90%
8 TOTAL CURRENT ASSETS	\$ 682,655,287	\$ 779,063,826	
9 Property, Plant & Equipment (Net)	2,940,261,732	2,944,093,911	0%
10 Other Assets	123,681,177	168,588,932	-27%
11 TOTAL ASSETS	\$ 3,746,598,196	\$ 3,891,746,670	
12 Current Liabilities	115,533,241	81,072,147	43%
14 Net Pension Liability	142,283,669	166,224,640	-14%
15 Outstanding Debt	2,281,544,078	2,261,862,966	1%
16 Net Investment in Capital Assets	762,724,958	809,128,209	-6%
17 Restricted Net Position	115,045,965	61,057,730	88%
18 Unrestricted Net Position	329,466,284	512,400,978	-36%
19 TOTAL LIABILITIES & EQUITY	\$ 3,746,598,196	\$ 3,891,746,670	

RESTRICTED AND DESIGNATED CASH AND CASH EQUIVALENTS RECONCILIATION

RESTRICTED RESERVES			
20 2018 Bond Proceeds	66	\$ (0)	100%
21 2019 Bond Proceeds	4,659	688,953	-99%
22 Debt Service Interest Payable	39,248,750	16,657,477	136%
23 Risk Contingency Fund	8,372,011	8,133,198	3%
24 Catastrophic Risk Reserve Fund	1,164,438	1,131,435	3%
25 Box Elder County ROW (sales tax)		3,278,330	-100%
26 Utah County 4th Qtr (sales tax)	24,690,353	16,165,990	53%
27 Amounts held in escrow	62,894,388	36,095,361	74%
28 TOTAL RESTRICTED RESERVES	\$ 136,374,665	\$ 82,150,745	
DESIGNATED GENERAL AND CAPITAL RESERVES			
29 General Reserves	72,100,000	72,100,000	
30 Service Sustainability Reserves	12,017,000	12,017,000	
31 Capital Reserve	46,541,000	46,541,000	
32 Debt Reduction Reserve	30,000,000	30,000,000	
33 TOTAL DESIGNATED GENERAL AND CAPITAL RESERVES	\$ 160,658,000	\$ 160,658,000	
34 TOTAL RESTRICTED AND DESIGNATED CASH AND EQUIVALENTS	\$ 297,032,665	\$ 242,808,745	

SUMMARY FINANCIAL DATA

EXHIBIT 1-3

(UNAUDITED)

As of December 31, 2024

REVENUE & EXPENSES

	ACTUAL Dec-24	ACTUAL Dec-23	YTD 2024	YTD 2023
OPERATING REVENUE				
1 Passenger Revenue	\$ (3,558,820)	\$ (2,701,112)	\$ (39,009,285)	\$ (35,414,277)
2 Advertising Revenue	(358,333)	(193,500)	(2,092,000)	(2,541,000)
3 TOTAL OPERATING REVENUE	\$ (3,917,154)	\$ (2,894,612)	\$ (41,101,285)	\$ (37,955,277)
OPERATING EXPENSE				
4 Bus Service	\$ 12,173,993	\$ 11,167,323	\$ 145,451,213	\$ 133,541,051
5 Commuter Rail	2,494,267	2,475,502	30,017,948	29,705,466
6 Light Rail	3,901,806	4,060,816	47,163,208	44,332,911
7 Maintenance of Way	1,285,001	1,676,659	20,943,012	20,379,831
8 Paratransit Service	2,251,341	1,448,004	30,348,019	26,815,900
9 RideShare/Van Pool Services	258,574	284,913	3,209,173	3,390,473
10 Microtransit	1,489,270	2,341,662	10,576,899	9,809,359
11 Operations Support	4,869,651	5,059,330	64,806,635	64,203,300
12 Administration	7,039,212	4,936,910	57,913,432	52,735,061
13 Non-Departmental	-	-	5,557,291	-
14 TOTAL OPERATING EXPENSE	\$ 35,763,115	\$ 33,451,120	\$ 415,986,831	\$ 384,913,353
15 NET OPERATING (INCOME) LOSS	\$ 31,845,961	\$ 30,556,508	\$ 374,885,546	\$ 346,958,076
NON-OPERATING EXPENSE (REVENUE)				
16 Investment Revenue	(18,297,564)	17,677,181	(72,486,312)	(33,648,265)
17 Sales Tax Revenue ¹	(52,412,746)	(55,467,135)	(499,507,697)	(493,343,543)
18 Other Revenue	(834,002)	(1,594,250)	(12,581,682)	(13,183,936)
19 Fed Operations/Preventative Maint. Revenue	(16,698,802)	(4,149,593)	(55,273,711)	(63,688,301)
20 Bond Interest	4,611,081	6,775,408	74,348,614	74,972,046
21 Bond Interest UTCT	148,357	148,357	1,780,285	1,780,285
22 Bond Cost of Issuance/Fees	(191,696)	-	2,332,221	911,288
23 Lease Interest	302,551	71,460	3,270,502	2,766,162
24 Sale of Assets	(96,791)	71,706	(605,141)	5,116,288
25 TOTAL NON-OPERATING EXPENSE (REVENUE)	\$ (83,469,613)	\$ (36,466,866)	\$ (558,722,920)	\$ (518,317,976)
26 CONTRIBUTION TO RESERVES	\$ 51,623,652	\$ 5,910,358	\$ 183,837,374	\$ 171,359,900
OTHER EXPENSES (NON-CASH)				
27 Bond Premium/Discount Amortization	(344,047)	(362,565)	(4,128,561)	(4,104,142)
28 Bond Refunding Cost Amortization	1,102,053	448,995	13,224,638	27,117,578
29 Future Revenue Cost Amortization	-	67,576	675,762	810,915
30 Depreciation	12,120,816	14,732,071	147,105,419	142,729,772
31 NET OTHER EXPENSES (NON-CASH)	\$ 12,878,822	\$ 14,886,077	\$ 156,877,259	\$ 166,554,123

¹ Current Year Sales Taxes YTD Include Actuals Plus Two Prior Month Accruals

**BUDGET TO ACTUAL REPORT
(UNAUDITED)**

EXHIBIT 1-4

As of December 31, 2024

CURRENT MONTH

	ACTUAL	BUDGET	VARIANCE	%
	Dec-24	Dec-24	FAVORABLE (UNFAVORABLE)	FAVORABLE (UNFAVORABLE)
OPERATING REVENUE				
1 Passenger Revenue	\$ (3,558,820)	\$ (3,485,172)	\$ 73,649	2%
2 Advertising Revenue	(358,333)	(200,000)	\$ 158,333	79%
3 TOTAL OPERATING REVENUE	\$ (3,917,154)	\$ (3,685,172)	\$ 231,982	6%
OPERATING EXPENSE				
4 Bus Service	\$ 12,173,993	12,381,193	\$ 207,200	2%
5 Commuter Rail	2,494,267	2,748,785	\$ 254,518	9%
6 Light Rail	3,901,806	4,074,735	\$ 172,929	4%
7 Maintenance of Way	1,285,001	1,777,937	\$ 492,936	28%
8 Paratransit Service	2,251,341	2,480,273	\$ 228,932	9%
9 RideShare/Van Pool Services	258,574	334,415	\$ 75,841	23%
10 Microtransit	1,489,270	1,079,507	\$ (409,763)	-38%
11 Operations Support	4,869,651	5,422,795	\$ 553,144	10%
12 Administration	7,039,212	5,598,539	\$ (1,440,673)	-24%
13 Non-Departmental	-	250,000	\$ 250,000	549%
14 TOTAL OPERATING EXPENSE	\$ 35,763,115	\$ 36,148,179	\$ 385,064	1%
15 NET OPERATING (INCOME) LOSS	\$ 31,845,961	\$ 32,463,007	\$ 617,046	2%
NON-OPERATING EXPENSE (REVENUE)				
16 Investment Revenue	\$ (18,297,564)	\$ (468,750)	\$ 17,828,814	3803%
17 Sales Tax Revenue	(52,412,746)	(47,568,819)	\$ 4,843,927	11%
18 Other Revenue	(834,002)	(1,200,000)	\$ (365,998)	-30%
19 Fed Operations/Preventative Maint. Revenue	(16,698,802)	(8,000,000)	\$ 8,698,802	109%
20 Bond Interest	4,611,081	6,542,537	\$ 1,931,456	30%
21 Bond Interest UTCT	148,357	144,141	\$ (4,216)	-3%
22 Bond Cost of Issuance/Fees	(191,696)	15,000	\$ 206,696	2756%
23 Lease Interest	302,551	237,592	\$ (64,958)	-27%
24 Sale of Assets	(96,791)	-	\$ 96,791	
25 TOTAL NON-OPERATING EXPENSE (REVENUE)	\$ (83,469,613)	\$ (50,298,299)	\$ 33,171,314	73%
26 CONTRIBUTION TO RESERVES	\$ 51,623,652	\$ 17,835,291		

BUDGET TO ACTUAL REPORT BY CHIEF
(UNAUDITED)
As of December 31, 2024

EXHIBIT 1-4A

CURRENT MONTH

		ACTUAL	BUDGET	ORIGINAL	AMENDED	VARIANCE	%
		Dec-24	Dec-24	BUDGET	BUDGET	FAVORABLE	FAVORABLE
				TOTAL	TOTAL	(UNFAVORABLE)	(UNFAVORABLE)
OPERATING EXPENSE							
1	Board of Trustees	\$ 223,773	\$ 280,885	\$ 3,147,000	\$ 3,370,412	\$ 57,112	20%
2	Executive Director	478,404	562,112	\$ 5,926,000	6,521,742	\$ 83,708	15%
3	Chief Communication Officer	941,614	409,587	\$ 3,943,000	4,278,545	\$ (532,027)	-130%
4	Chief Planning and Engagement Off.	2,361,484	1,925,323	\$ 18,657,000	23,143,785	\$ (436,161)	-23%
5	Chief Finance Officer	1,243,628	1,738,301	\$ 17,196,000	20,287,069	\$ 494,673	28%
6	Chief Operating Officer	25,300,521	26,927,699	\$ 302,743,000	319,026,773	\$ 1,627,178	6%
7	Chief People Officer	950,887	1,003,567	\$ 14,369,000	12,012,941	\$ 52,680	5%
8	Chief Development Officer	568,689	629,170	\$ 8,754,000	7,542,871	\$ 60,481	10%
9	Chief Enterprise Strategy Officer	3,694,114	2,421,539	\$ 24,822,000	28,645,292	\$ (1,272,575)	-53%
10	Non-Departmental	-	250,000	\$ 1,000,000	682,000	\$ 250,000	100%
11	TOTAL OPERATING EXPENSE	\$ 35,763,114	\$ 36,148,183	\$ 400,557,000	\$ 425,511,430	\$ 385,069	1%

YEAR TO DATE

		ACTUAL	BUDGET		VARIANCE	%
		Dec-24	Dec-24		FAVORABLE	FAVORABLE
					(UNFAVORABLE)	(UNFAVORABLE)
OPERATING EXPENSE						
12	Board of Trustees	\$ 2,969,802	\$ 3,370,412		\$ 400,610	12%
13	Executive Director	6,212,225	6,521,742		\$ 309,517	5%
14	Chief Communication Officer	3,347,321	4,278,545		\$ 931,224	22%
15	Chief Planning and Engagement Off.	20,124,882	23,143,785		\$ 3,018,903	13%
16	Chief Finance Officer	16,210,216	20,287,069		\$ 4,076,853	20%
17	Chief Operating Officer	315,149,143	319,026,773		\$ 3,877,630	1%
18	Chief People Officer	12,654,174	12,012,941		\$ (641,233)	-5%
19	Chief Development Officer	6,853,130	7,542,871		\$ 689,741	9%
20	Chief Enterprise Strategy Officer	26,878,644	28,645,292		\$ 1,766,648	6%
21	Non-Departmental	5,557,291	682,000		\$ (4,875,291)	-715%
22	TOTAL OPERATING EXPENSE	\$ 415,956,828	\$ 425,511,430		\$ 9,554,602	2%

BUDGET TO ACTUAL REPORT
(UNAUDITED)
As of December 31, 2024

EXHIBIT 1-5

YEAR TO DATE

	ACTUAL	BUDGET	VARIANCE	%
	Dec-24	Dec-24	FAVORABLE	FAVORABLE
			(UNFAVORABLE)	(UNFAVORABLE)
OPERATING REVENUE				
1 Passenger Revenue	\$ (39,009,285)	\$ (37,980,594)	\$ 1,028,691	3%
2 Advertising Revenue	(2,092,000)	(2,400,000)	(308,000)	-14%
3 TOTAL OPERATING REVENUE	\$ (41,101,285)	\$ (40,380,594)	\$ 720,691	2%
OPERATING EXPENSE				
4 Bus Service	\$ 145,451,213	\$ 143,835,274	\$ (1,615,939)	-1%
5 Commuter Rail	30,017,948	32,743,654	\$ 2,725,706	9%
6 Light Rail	47,163,208	48,415,777	\$ 1,252,569	3%
7 Maintenance of Way	20,943,012	21,444,809	\$ 501,797	3%
8 Paratransit Service	30,348,019	29,192,991	\$ (1,155,028)	-4%
9 RideShare/Van Pool Services	3,209,173	4,011,658	\$ 802,485	22%
10 Microtransit	10,576,899	12,949,072	\$ 2,372,173	20%
11 Operations Support	64,806,635	64,673,905	\$ (132,730)	0%
12 Administration	57,913,432	67,562,286	\$ 9,648,854	16%
13 Non-Departmental	5,557,291	682,000	\$ (4,875,291)	-1129%
14 TOTAL OPERATING EXPENSE	\$ 415,986,831	\$ 425,511,426	\$ 9,524,596	2%
15 NET OPERATING (INCOME) LOSS	\$ 374,885,546	\$ 385,130,833	\$ 10,245,287	3%
NON-OPERATING EXPENSE (REVENUE)				
16 Investment Revenue	\$ (72,486,312)	\$ (5,625,000)	\$ 66,861,312	1297%
17 Sales Tax Revenue	(499,507,697)	(493,670,000)	\$ 5,837,697	1%
18 Other Revenue	(12,581,682)	(14,400,000)	\$ (1,818,318)	-14%
19 Fed Operations/Preventative Maint. Revenue	(55,273,711)	(88,000,000)	\$ (32,726,289)	-41%
20 Bond Interest	74,348,614	78,654,588	\$ 4,305,974	6%
21 Bond Interest UTCT	1,780,285	1,729,692	\$ (50,593)	-3%
22 Bond Cost of Issuance/Fees	2,332,221	79,000	\$ (2,253,221)	-3521%
23 Lease Interest	3,270,502	2,851,108	\$ (419,394)	-16%
24 Sale of Assets	(605,141)	-	\$ 605,141	
25 TOTAL NON-OPERATING EXPENSE (REVENUE)	\$ (558,722,920)	\$ (518,380,612)	\$ 40,342,308	9%
26 CONTRIBUTION TO RESERVES	\$ 183,837,374	\$ 133,249,780		

CAPITAL PROJECTS
(UNAUDITED)
As of December 31, 2024

EXHIBIT 1-6

	2024 ACTUAL	ANNUAL BUDGET	PERCENT
EXPENSES			
1 REVENUE AND NON-REVENUE VEHICLES	38,868,375.79	\$ 56,950,000	68.3%
2 INFORMATION TECHNOLOGY	16,100,629.36	21,515,000	74.8%
3 FACILITIES, MAINTENANCE & ADMIN. EQUIP.	10,354,392.30	15,768,000	65.7%
4 CAPITAL PROJECTS	61,865,422.44	76,288,000	81.1%
5 STATE OF GOOD REPAIR	31,040,506.25	53,312,000	58.2%
6 DEPOT DISTRICT	314,083.50	1,000,000	31.4%
7 OGDEN/WEBER STATE BRT	2,604,524.90	5,600,000	46.5%
8 TIGER	(1,777,695.21)	0	#DIV/0!
9 TOTAL	159,370,239	\$ 230,433,000	69.2%
REVENUES			
10 GRANT	\$ 17,449,665	\$ 59,152,000	29.5%
11 STATE CONTRIBUTION	19,783,792	13,447,000	147.1%
12 LEASES (PAID TO DATE)		27,234,000	0.0%
13 BONDS		6,330,000	0.0%
14 LOCAL PARTNERS	1,056,974.62	8,861,000	11.9%
15 UTA FUNDING	121,079,807	129,568,000	93.4%
16 TOTAL	159,370,239	\$ 244,592,000	65.2%

**FAREBOX RECOVERY & SPR
(UNAUDITED)**

EXHIBIT 1-7

As of December 31, 2024

BY SERVICE

	CURRENT MONTH		YEAR TO DATE	
	Dec-24	Dec-23	2024	2023
UTA				
Fully Allocated Costs	35,763,115	34,802,275	415,986,831	386,264,507
Passenger Farebox Revenue	3,558,820	2,705,059	39,009,285	35,418,223
Passengers	3,080,041	2,821,195	40,478,945	35,059,930
Farebox Recovery Ratio	10.0%	7.8%	9.4%	9.2%
Actual Subsidy per Rider	\$10.46	\$11.38	\$9.31	\$10.01
BUS SERVICE				
Fully Allocated Costs	18,156,530	17,218,999	209,652,427	191,933,556
Passenger Farebox Revenue	1,459,303	1,216,291	16,517,061	15,916,727
Passengers	1,485,614	1,393,001	19,701,025	17,945,987
Farebox Recovery Ratio	8.0%	7.1%	7.9%	8.3%
Actual Subsidy per Rider	\$11.24	\$11.49	\$9.80	\$9.81
LIGHT RAIL SERVICE				
Fully Allocated Costs	7,890,030	8,181,245	94,627,967	91,179,844
Passenger Farebox Revenue	775,795	657,775	8,590,698	7,745,166
Passengers	1,077,802	956,965	13,964,840	11,043,721
Farebox Recovery Ratio	9.8%	8.0%	9.1%	8.5%
Actual Subsidy per Rider	\$6.60	\$7.86	\$6.16	\$7.55
COMMUTER RAIL SERVICE				
Fully Allocated Costs	4,919,131	5,087,756	58,941,682	56,810,776
Passenger Farebox Revenue	471,855	436,247	5,606,492	5,139,237
Passengers	300,827	284,137	4,128,460	3,736,620
Farebox Recovery Ratio	9.6%	8.6%	9.5%	9.0%
Actual Subsidy per Rider	\$14.78	\$16.37	\$12.92	\$13.83
MICROTRANSIT				
Fully Allocated Costs	1,634,405	(137,498)	12,146,111	8,187,540
Passenger Farebox Revenue	57,636	39,476	599,979	524,265
Passengers	47,335	40,107	567,907	415,010
Farebox Recovery Ratio	3.5%	-28.7%	4.9%	6.4%
Actual Subsidy per Rider	\$33.31	(\$4.41)	\$20.33	\$18.47
PARATRANSIT				
Fully Allocated Costs	2,465,902	3,780,941	32,433,637	30,906,834
Passenger Farebox Revenue	493,116	39,067	3,872,703	2,368,852
Passengers	74,735	70,876	989,147	885,469
Farebox Recovery Ratio	20.0%	1.0%	11.9%	7.7%
Actual Subsidy per Rider	\$26.40	\$52.79	\$28.87	\$32.23
RIDESHARE				
Fully Allocated Costs	697,118	670,833	8,185,007	7,245,957
Passenger Farebox Revenue	301,115	316,203	3,822,352	3,723,976
Passengers	93,728	76,108	1,127,566	1,033,123
Farebox Recovery Ratio	43.2%	47.1%	46.7%	51.4%
Actual Subsidy per Rider	\$4.23	\$4.66	\$3.87	\$3.41

**FAREBOX RECOVERY & SPR
(UNAUDITED)
As of December 31, 2024**

EXHIBIT 1-8

BY TYPE

	CURRENT MONTH		YEAR TO DATE	
	Dec-24	Dec-23	2024	2023
FULLY ALLOCATED COSTS				
Bus Service	\$18,156,530	\$17,218,999	\$209,652,427	\$191,933,556
Light Rail Service	\$7,890,030	\$8,181,245	\$94,627,967	\$91,179,844
Commuter Rail Service	\$4,919,131	\$5,087,756	\$58,941,682	\$56,810,776
Microtransit	\$1,634,405	-\$137,498	\$12,146,111	\$8,187,540
Paratransit	\$2,465,902	\$3,780,941	\$32,433,637	\$30,906,834
Rideshare	\$697,118	\$670,833	\$8,185,007	\$7,245,957
UTA	\$35,763,115	\$34,802,275	\$415,986,831	\$386,264,507
PASSENGER FAREBOX REVENUE				
Bus Service	\$1,459,303	\$1,216,291	\$16,517,061	\$15,916,727
Light Rail Service	\$775,795	\$657,775	\$8,590,698	\$7,745,166
Commuter Rail Service	\$471,855	\$436,247	\$5,606,492	\$5,139,237
Microtransit	\$57,636	\$39,476	\$599,979	\$524,265
Paratransit	\$493,116	\$39,067	\$3,872,703	\$2,368,852
Rideshare	\$301,115	\$316,203	\$3,822,352	\$3,723,976
UTA	\$3,558,820	\$2,705,059	\$39,009,285	\$35,418,223
PASSENGERS				
Bus Service	1,485,614	1,393,001	19,701,025	17,945,987
Light Rail Service	1,077,802	956,965	13,964,840	11,043,721
Commuter Rail Service	300,827	284,137	4,128,460	3,736,620
Microtransit	47,335	40,107	567,907	415,010
Paratransit	74,735	70,876	989,147	885,469
Rideshare	93,728	76,108	1,127,566	1,033,123
UTA	3,080,041	2,821,195	40,478,945	35,059,930
FAREBOX RECOVERY RATIO				
Bus Service	8.0%	7.1%	7.9%	8.3%
Light Rail Service	9.8%	8.0%	9.1%	8.5%
Commuter Rail Service	9.6%	8.6%	9.5%	9.0%
Microtransit	3.5%	-28.7%	4.9%	6.4%
Paratransit	20.0%	1.0%	11.9%	7.7%
Rideshare	43.2%	47.1%	46.7%	51.4%
UTA	10.0%	7.8%	9.4%	9.2%
ACTUAL SUBSIDY PER RIDER				
Bus Service	\$11.24	\$11.49	\$9.80	\$9.81
Light Rail Service	\$6.60	\$7.86	\$6.16	\$7.55
Commuter Rail Service	\$14.78	\$16.37	\$12.92	\$13.83
Microtransit	\$33.31	(\$4.41)	\$20.33	\$18.47
Paratransit	\$26.40	\$52.79	\$28.87	\$32.23
Rideshare	\$4.23	\$4.66	\$3.87	\$3.41
UTA	\$10.46	\$11.38	\$9.31	\$10.01

**SUMMARY OF ACCOUNTS RECEIVABLE
(UNAUDITED)**

EXHIBIT 1-9

As of December 31, 2024

Classification	Total	Current	31-60 Days	61-90 Days	90-120 Days	Over 120 Days
1 Federal Grants Government ¹	\$ 796,305	\$ 796,305	-	-	-	-
2 Sales Tax Contributions	92,150,086	52,412,746	\$ 39,737,340	-	-	-
3 Warranty Recovery	2,272,246	2,272,246	-	-	-	-
4 Build America Bond Subsidies	-	-	-	\$ -	\$ -	\$ -
5 Product Sales and Development	1,832,132	817,213	14,677	439,773	6,236	554,233
6 Pass Sales	43,549	142,213	(2,635)	85	46,420	(142,534)
7 Property Management	166,993	12,426	23,236	14,098	-	117,233
8 Vanpool/Rideshare	188,011	127,586	17,324	8,885	8,045	26,171
9 Salt Lake City Agreement	523,919	523,919	-	-	-	-
10 Planning	-	-	-	-	-	-
11 Capital Development Agreements	20,994,434	7,190,282	6,457	644,583	-	13,153,111
12 Other	77,291,517	110,948	1,649	(2)	6,250	352,800
13 Total	\$ 196,259,192	\$ 64,405,885	\$ 39,798,048	\$ 1,107,423	\$ 66,951	\$ 14,061,014

Percentage Due by Aging

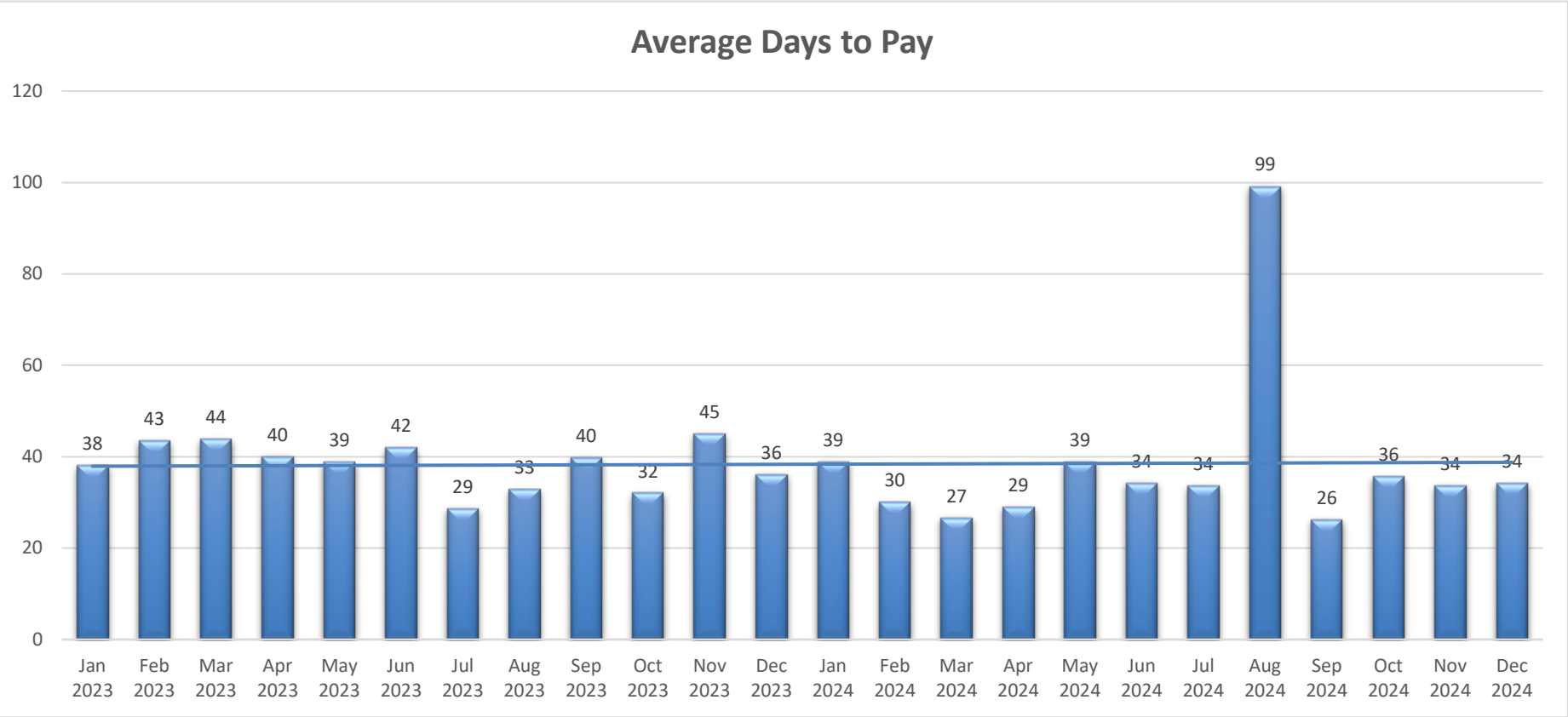
14 Federal Grants Government ¹	100.0%	0.0%	0.0%	0.0%	0.0%
15 Sales Tax Contributions	56.9%	43.1%	0.0%	0.0%	0.0%
16 Warranty Recovery	100.0%	0.0%	0.0%	0.0%	0.0%
17 Build America Bond Subsidies	0.0%	0.0%	0.0%	0.0%	0.0%
18 Product Sales and Development	44.6%	0.8%	24.0%	0.3%	30.3%
19 Pass Sales	326.6%	-6.1%	0.2%	106.6%	-327.3%
20 Property Management	7.4%	13.9%	8.4%	0.0%	70.2%
21 Vanpool/Rideshare	67.9%	9.2%	4.7%	4.3%	13.9%
22 Salt Lake City Agreement	100.0%	0.0%	0.0%	0.0%	0.0%
23 Planning					
24 Capital Development Agreements	34.2%	0.0%	3.1%	0.0%	62.7%
25 Other	0.1%	0.0%	0.0%	0.0%	0.5%
26 Total	32.8%	20.3%	0.6%	0.0%	7.2%

¹ Federal preventive maintenance funds and federal RideShare funds

SUMMARY OF APPROVED DISBURSEMENTS OVER \$200,000
FROM DEC 1, 2024 THROUGH DEC 31, 2024
(UNAUDITED)

EXHIBIT 1-10

Contract # and Description	Contract Date	Vendor	Check #	Date	Check Total	
00223632	MANAGEMENT SERVICES CONSULTANT	4/14/2023	AECOM Technical Services, Inc.	902337	12/31/2024	(313,296.92)
00203378	TPSS UPGRADE/REHAB	8/23/2021	C3M Power Systems LLC	901992	12/4/2024	(369,526.30)
00203378	TPSS UPGRADE/REHAB	8/23/2021	C3M Power Systems LLC	901992	12/4/2024	(369,526.30)
00203378	TPSS UPGRADE/REHAB	8/23/2021	C3M Power Systems LLC	902146	12/19/2024	(497,728.15)
R2024-10-03	Pension Contribution	10/23/2024	Cambridge Associates, LLC.	387258	12/12/2024	(1,327,507.08)
R2024-10-03	Pension Contribution	10/23/2024	Cambridge Associates, LLC.	387586	12/26/2024	(1,264,413.27)
02303802	CNG DOOR	1/31/2024	CRAWFORD DOOR SALES	387357	12/19/2024	(220,360.00)
00017368	SGR Network Equipment	6/16/2024	CVE Technologies Group, Inc.	902054	12/11/2024	(233,254.98)
00017275	200 S Bus Stops	3/6/2024	Landmark Companies Inc	387192	12/11/2024	(281,163.58)
02403819	TRAX Platform in South Jordan	5/8/2024	PAULSEN CONSTRUCTION, INC.	902150	12/19/2024	(529,722.00)
00243813	TRAX Platform in South Jordan	5/8/2024	PAULSEN CONSTRUCTION, INC.	902150	12/19/2024	(351,964.00)
00243813	TRAX Platform in South Jordan	5/8/2024	PAULSEN CONSTRUCTION, INC.	902339	12/31/2024	(442,514.00)
00213430	AD AGENCY	6/24/2021	R&R PARTNERS , INC.	902143	12/19/2024	(689,680.00)
00223660	TRAINING	7/17/2023	Relco Locomotives Inc	902147	12/19/2024	(850,000.00)
02203566	MKV20-System	6/3/2020	SCHEIDT & BACHMANN USA, INC.	901990	12/4/2024	(242,447.90)
02203566	MKV20-System	6/3/2020	SCHEIDT & BACHMANN USA, INC.	902247	12/24/2024	(211,164.36)
02403832	SOFTWARE SERVICE	2/14/2024	SHI INTERNATIONAL CORP.	902148	12/19/2024	(930,451.54)
02403832	SOFTWARE SERVICE	2/14/2024	SHI INTERNATIONAL CORP.	902249	12/24/2024	(212,235.92)
00233786	ON-CALL MAINTENANCE	6/9/2021	Stacy and Witbeck, Inc.	902056	12/11/2024	(361,715.00)
01136796	ON-CALL MAINTENANCE	6/9/2021	Stacy and Witbeck, Inc.	902340	12/31/2024	(457,522.76)
00203349	ON-CALL MAINTENANCE	6/9/2021	Stacy and Witbeck, Inc.	902340	12/31/2024	(1,667,631.00)
00203349	ON-CALL MAINTENANCE	6/9/2021	Stacy and Witbeck, Inc.	902340	12/31/2024	(403,955.50)
02403847	APC	11/20/2024	URBAN TRANSPORTATION ASSOC. IN	387583	12/24/2024	(300,000.00)
20038281	Study	9/6/2024	Utah Dept of Transportation (U	387151	12/4/2024	(500,000.00)
HB-322	Rail Car acquisition	5/1/2022	Utah Dept of Transportation (U	902151	12/19/2024	(5,000,000.00)
R2024-10-03	INCOME TAX	10/23/2024	UTAH ST TAX (WITHHOLDING ONLY)	387292	12/12/2024	(355,212.98)
R2024-10-03	INCOME TAX	10/23/2024	UTAH ST TAX (WITHHOLDING ONLY)	387622	12/26/2024	(336,567.60)
02033993	ON DEMAND MOBILITY	9/7/2021	VIA TRANSPORTATION INC	902149	12/19/2024	(557,380.06)
02033993	ON DEMAND MOBILITY	9/7/2021	VIA TRANSPORTATION INC	902149	12/19/2024	(256,717.86)
00203399	ON DEMAND MOBILITY	9/7/2021	VIA TRANSPORTATION INC	902248	12/24/2024	(222,200.96)
02003255	COMMSYSTEM	11/14/2023	Woojin Is America Inc	901991	12/4/2024	(253,026.10)





Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
THROUGH: Jay Fox, Executive Director
FROM: Viola Miller, Chief Financial Officer
PRESENTER(S): Brian Reeves, Associate Chief Financial Officer

TITLE:

Investment Report - Fourth Quarter 2024

AGENDA ITEM TYPE:
Report

RECOMMENDATION:
Informational report for discussion

BACKGROUND:

The Board of Trustees Policy No. 2.1, Financial Management, authorizes the Treasurer to manage the investment of all non-retirement Authority funds in compliance with applicable laws and requires the Chief Financial Officer to prepare and present to the Board a summary of investments, investment activity, and investment performance compared to benchmarks as soon as practical after the end of each calendar quarter. The investment report has been prepared in accordance with the Financial Management Policy and is being presented to the Board.

DISCUSSION:

As of December 31, 2024, the benchmark return (greater of the average return of three-month U.S. Treasury bills or the average return of Federal Funds rate) was 4.65% for quarter. Investment returns in the State of Utah's Public Treasurer's Investment Fund (PTIF) 4.88%, and Zions Corporate Trust 4.88% were above the benchmark. Chandler Asset Management 4.31% and the overnight account at Zions Bank 4.17% did not exceed the benchmark return.

The blended portfolio return rate for the quarter was 4.52%, which did not exceed the benchmark rate due to

long term investment strategy and the increased interest rate environment for the short end of the yield curve. During the quarter, there were three (3) Federal Funds rate cuts resulting in a lowering of short-term interest rates by 100 basis points (1.00%) demonstrating a blended portfolio yield difference from the benchmark of 13 basis points (0.13%).

All investments are in accordance with the Utah State Money Management Act, Section 51, Chapter 7, Utah Code annotated.

ALTERNATIVES:

Utah Transit Authority could increase investments in the Chandler Investment Portfolio and extend the overall duration to potentially seek higher returns. However, that strategy would forego the current advantages of the shorter duration and higher return portfolios like PTIF, and the overnight investment rate at Zions Bank. Additionally, it would increase the liquidity risk by extending the portfolio duration, which is contrary to the Corporate Policy No. 3.1.4 Investments.

FISCAL IMPACT:

Investment earnings for UTA in the fourth quarter of 2024 were \$4,347,532, and year to date earnings for 2024 were \$21,002,515. The 2024 budget amount was \$5,625,000.

ATTACHMENTS:

Investment Report

Utah Transit Authority

Investment Portfolio

December 31, 2024

Investment	CUSIP	Amount Invested	Purchase Date	Maturity	Yield	Quarter Earnings
Public Treasurer's Investment Fund		\$ 130,265,859			4.88%	\$ 1,761,641
Chandler Asset Management		248,348,926			4.31%	\$ 1,588,176
Zions Corporate Trust		39,522,333			4.88%	\$ 862,544
Zions Bank		23,401,335			4.17%	\$ 135,170
Total Investments		\$ 441,538,453			4.52%	\$ 4,347,532

Monthly Rates of Returns

	October	November	December	Average
Public Treasurer's Investment Fund	5.04%	4.87%	4.74%	4.881%
Chandler Asset Management	4.33%	4.30%	4.31%	4.312%
Zions Bank	4.40%	4.14%	3.97%	4.173%
Zions Corporate Trust	5.04%	4.87%	4.74%	4.881%
Fed Funds Rate	4.83%	4.64%	4.48%	4.648%
3 Month T-Bill	4.72%	4.62%	4.39%	4.575%

*Benchmark Return is the highest of either the 3 Month T-Bill rate or the Fed Funds rate.

Securities Purchased Outside of Investment Portfolio

10/01/2024-12/31/2024

Investment	CUSIP	Amount Invested	Purchase Date	Maturity	Yield to Maturity	Annual Earnings
No purchases this quarter						

Securities Sold Outside of Investment Portfolio

10/01/2024-12/31/2024

Investment	CUSIP	Amount Invested	Date Sold	Sale Amount	Interest Earned	Gain
No sales this quarter						
		\$ -				\$ -



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
THROUGH: Jay Fox, Executive Director
FROM: Viola Miller, Chief Financial Officer
PRESENTER(S): Tracy Young, Grants Director
Gregg Larsen, Manager of Grant Services

TITLE:

R2025-02-02 - Resolution Authorizing the Amendment of Previously Approved Grant Awards and the Execution of Grant Agreements for Specified Projects

AGENDA ITEM TYPE:
Resolution

RECOMMENDATION:

Approve Resolution R2025-02-02 to authorize the amendment of previously approved grant awards and the execution of grant agreements for specified projects as presented.

BACKGROUND:

Utah Code §§ 17B-2a-801 *et seq.* requires the Board of Trustees (the “Board”) of the Authority to review and approve any contract with a value of \$200,000 or more. Board Policy 2.2 - Contract Authority, Procurement and Grants enacted on December 21, 2022, requires discretionary grant awards greater than \$200,000 to be presented to the Board for approval at the time of the notice of award, and after such award is approved in the Authority’s budget.

The grants being presented received funding from the Metropolitan Planning Organizations who now follow the obligation timeline for federal 5307 funding of 5 years. These funds must be obligated in a grant agreement by March 2025 or will be lost. The original projects that can no longer use the funding were previously approved by the Board for grant obligation.

DISCUSSION:

Staff recommends approval of Resolution R2025-02-02 which amends previously approved resolutions R2020-03-01, R2023-07-01, and R2024-06-06. This resolution will change the scope of federal funds previously selected for award through Wasatch Front Regional Council (WFRC) and Mountainland Association of Governments (MAG) and authorizes the Executive Director to execute the grant funds for the new uses as shown in Exhibit A of the resolution.

Staff proposes adding federal funding to projects as original projects are either ineligible, under budget, or a need exists for project service support.

- Clearfield Trail - add \$553,344 from:
 - FrontRunner Bike Racks - \$95,000 TAP funds
 - Passenger Signage - \$458,344 CMAQ funds
- Bus 3 Point Bike Racks - add \$181,612 from:
 - FrontRunner Bike Racks - \$181,612 TAP funds
- Eagle Mountain Park and Ride Lot - add \$1,248,594 from:
 - Utah County Bus Stops \$ 968,904 CMAQ funds
 - Utah Southern Rail Trail Study - \$279,690 Historic Utah Southern RR Trail Study
- CNG Fueling Facility (Depot District) - \$2M
 - Previously 5600 W Bus Route Construction from CMAQ funds

ALTERNATIVES:

If changes are not approved the funding will be returned to the Metropolitan Planning Organizations for re-distribution.

FISCAL IMPACT:

The identified funds for reallocation are all included in the approved 2025 Capital Budget.

ATTACHMENTS:

Resolution R2024-02-02

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE UTAH TRANSIT
AUTHORITY AUTHORIZING THE AMENDMENT OF PREVIOUSLY APPROVED
GRANT AWARDS AND THE EXECUTION OF GRANT AGREEMENTS
FOR SPECIFIED PROJECTS**

R2025-02-02

February 12, 2025

WHEREAS, the Utah Transit Authority (the “Authority”) is a large public transit district organized under the laws of the State of Utah and created to transact and exercise all of the powers in the Utah Limited Purpose Local Government Entities - Special Districts Act and the Utah Public Transit District Act (the “Act”); and

WHEREAS, the Authority has (i) obtained grants of assistance for the Projects shown in Exhibit A; (ii) secured (or contracted to secure) local match commitments from Stakeholders for the same Projects, where applicable; and (iii) budgeted Authority funds for the same Projects; and

WHEREAS, UTAH CODE § 17B-2a-801 *et seq.* of the Act requires the Board of Trustees (the “Board”) of the Authority to review and approve any contract with a value of \$200,000 or more; and

WHEREAS, Board Policy 2.2 - Contract Authority, Procurement and Grants enacted on December 21, 2022, requires discretionary grant awards greater than \$200,000 to be presented to the Board for approval at the time of the notice of award, and after such award is approved in the Authority’s budget; and

WHEREAS, the Board understands and recognizes that grant agreements for the Projects, shown in Exhibit A, are ready to be executed and qualify as contracts with a value exceeding \$200,000; and

WHEREAS, the Board of the Authority previously approved via resolutions R2020-03-01, R2023-07-01, and R2024-06-06 the grant funds shown in Exhibit A, and understands that those funds are now being moved to alternative projects and will be authorized for execution through this resolution; and

WHEREAS, the Authority’s Board desires to provide the Executive Director with the authority to execute the grant agreements for the Projects as described in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Utah Transit Authority:

1. That the Board hereby approves the change in scope for previously awarded grant funds for the Projects identified in Exhibit A.

R2025-02-02

2. That the Board hereby authorizes the Executive Director to execute the grants as amended through scope change approval as noted for the Projects listed in Exhibit A.
3. That the Board hereby ratifies any and all actions previously taken by the Authority's management, staff, and counsel to prepare the grants for the Projects listed in Exhibit A.
4. That the corporate seal be attached hereto.

Approved and adopted this 12th day of February 2025

Carlton Christensen, Chair
Board of Trustees

ATTEST:

Secretary of the Authority

(Corporate Seal)

Approved As To Form:

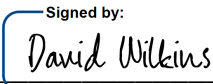
Signed by:

CA25CE8F60E344B...
Legal Counsel

Exhibit A

Funding Moves			
Project to Add Funding & Approval for Resolution R2025-02-XX	Funding From & Original Resolution #/Date	Funding From & Original Resolution #/Date	Funding From & Original Resolution #/Date
Clearfield Trail MSP208 Total Federal Funds \$553,344	FFY 2019 TAP FrontRunner Bike Racks (ineligible) \$95K federal R2020-03-01 3/11/2020	FFY 2019 CMAQ Passenger Signage (under budget) \$458,344 federal R2020-03-01 3/11/2020	
Bus 3 Point Bike Racks REV211 Total Federal Funds \$181,612	FFY 2019 TAP FrontRunner Bike Racks (ineligible) \$181,612 R2020-03-01 3/11/2020		
Eagle Mountain Park and Ride Lot MSP286 Total Federal Funds \$1,248,594	FFY2019 CMAQ Utah Co. Bus Stops (using local funds) \$629,303 R2020-03-01 3/11/2020	FFY2023 CMAQ Utah Co. Bus Stops (using local funds) \$339,601 R2023-07-01 7/12/2023	FFY 2023 Historic Utah Southern RR Trail Study \$279,690 (MAG managed with UDOT) No original resolution – the intent was to return the funds.
CNG Fueling Facility MSP102 (Depot District) Total Federal Funds \$2M Note: The CNG Fueling Facility will support the vehicles used on the 5600 W Bus Route	FFY 2023 CMAQ 5600 W Bus Route Construction (funds needed on CNG Fueling Facility) \$2M R2024-06-06 6/12/2024		



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
THROUGH: Jay Fox, Executive Director
FROM: David Wilkins, Assistant Attorney General, Director Transit Section
PRESENTER(S): David Wilkins, Assistant Attorney General, Director Transit Section
Mike Bell, Assistant Attorney General, UTA Counsel

TITLE:

Contract: Memorandum of Agreement for UTA Legal Counsel and Amendment One to the Memorandum of Agreement (Utah Attorney General's Office)

AGENDA ITEM TYPE:

Non-Procurement Agreement

RECOMMENDATION:

Approve the Memorandum of Agreement (MOA) and authorize the Executive Director to execute Amendment One. The Memorandum of Agreement and accompanying Amendment provide for the addition of an Assistant Attorney General and provides that UTA will cover the costs of an Equal Employment Opportunity (EEO) Investigator hired by the Attorney General's Office (AGO) to perform EEO investigations for UTA.

BACKGROUND:

The Public Transit District Act (UCA 17B-2a-810.1) directs that the Utah Attorney General's Office shall serve as legal counsel for a large public transit district, that the Attorney General is the legal advisor of a large public transit district, and that the AGO shall perform all legal services required by the large public transit district.

Pursuant to this statutory mandate, the AGO and UTA entered into a Memorandum of Agreement with an effective date of April 30, 2020, which defines the scope of services provided by assigned AGO attorneys to UTA and the administration of costs and items of support provided to assigned AGO attorneys by UTA. The MOA covers an expected term of 10 years. The MOA was executed by UTA's former Executive Director and Chief Financial Officer after conferring with the Board of Trustees office. The belief was that formal Board action was unnecessary since UTA's utilization of Assistant Attorney Generals for provision of legal services was mandated by statute.

Recently, at UTA's request, the AGO has employed an Equal Employment Opportunity investigator to reside at

and support UTA who shall report to the AGO Transit Section Director. In addition, the AGO has added one additional attorney to address UTA's employment law matters. Since the hiring of the EEO Investigator was not mandated by statute, it was necessary to bring Amendment One to the Board for formal approval. It therefore makes sense to bring the basic MOA along with Amendment One to the Board for approval.

DISCUSSION:

UTA is requesting approval of the MOU with an original estimated value of \$6,000,000 (over 10 years), and Amendment 1, with the not-to-exceed value of \$1,700,000 (covering the remaining 5 years of the agreement).

UTA is willing to compensate the AGO for the full cost of the investigator's salary and benefits; and is also willing to provide the investigator with the same logistical, travel, training, and other support it provides to the AGO attorneys as described in the original MOA. The additional Attorney shall have the duties and receive the support described in the base MOA.

CONTRACT SUMMARY:

Contractor Name:	Utah Attorney General's Office
Contract Number:	25-500429
Base Contract Effective Dates:	April 30, 2020 through April 29, 2030
Extended Contract Dates:	N/A
Existing Contract Value:	\$6,000,000
Amendment Amount:	\$1,700,000
New/Total Contract Value:	\$7,700,000
Procurement Method:	Mandated by law
Budget Authority:	2025 Approved Operating Budget

ALTERNATIVES:

UTA could hire an EEO investigator, but the value of attorney-client privilege would not be available.

FISCAL IMPACT:

These contracted services are part of annual operating budget.

The approved 2025 Operating Budget includes \$900,000 for AG services covered under this agreement. The annual estimated expense for this contract going forward (accounting for the increase in services requested through amendment 1) is \$900,000, with an approximate annual increase of 3%. Annual budget requests will be made for the remaining 5 ¼ years of the contract, as appropriate. .

This contract does not include the cost of AGO litigation division or other AGO support. This merely covers the 4 AGO attorneys and 1 EEO investigator assigned full time to UTA.

ATTACHMENTS:

1. 25-500429 - Memorandum of Agreement between Utah Transit Authority and Utah Attorney General's Office
2. Amendment 1 - Memorandum of Agreement between Utah Transit Authority and Utah Attorney General's Office

UTA 25-500429

MEMORANDUM OF AGREEMENT

Between

UTAH TRANSIT AUTHORITY

And

UTAH ATTORNEY GENERAL'S OFFICE

THIS MEMORANDUM OF AGREEMENT represents an understanding between the Utah Attorney General's Office and the Utah Transit Authority (UTA) (hereinafter the "Parties"), effective upon date of last signature below.

WHEREAS the Attorney General (AG) has a mission to uphold the constitutions of the United States and the State of Utah, enforce the law, protect the interests of Utah, its people, environment and resources; and

WHEREAS the AG is authorized and directed by UCA 17B-2a-810.1 to serve as legal counsel for UTA by:

- Providing legal advice, representation and guidance in all matters requiring legal involvement, and
- Aiding in conducting any investigation, hearing, or trial, and
- Prosecuting actions or proceedings for the enforcement of the provisions of the Constitution and statutes of the State of Utah or any rule or ordinance of UTA affecting public transit, persons, and property; and
- Performing any and all legal services required by UTA.

WHEREAS the AG has been authorized and mandated by the Legislature to operate as an internal service fund (ISF) agency and to bill civil matter client agencies accordingly;

NOW THEREFORE, in consideration of the foregoing and the promises set forth herein, the Parties agree as follows:

The AG shall provide legal counsel and representation to UTA in all aspects of its operations, in accordance with State of Utah Code and Schedule A of this agreement, **Scope of Services**.

The AG shall hire and supervise an appropriate team of attorneys and support staff necessary to complete this work and shall bill UTA in accordance with the ISF Rate schedule approved yearly by the Utah State Legislature as part of its annual authorizations and appropriations as described and in accordance with Schedule B of this Agreement, **Administration of Costs.**

The ISF rates reflects only the costs associated with AG personnel, operations and partial overhead. Costs and fees associated with litigation, including but not limited to, trial expense, judgments, or outside counsel fees will be contracted and billed to UTA separately.

The AG and UTA shall collaborate on development of an annual budget for all AG services and outside legal services provided to UTA.

The AG shall bill UTA monthly for services rendered, by providing a written invoice with supporting documentation The AG shall also create an ITI/ITA document in the state accounting system. UTA agrees to pay said invoice by approving the ITI/ITA document in the state accounting system not more than ten (10) working days from the date the document is created.

Disputes regarding the meaning or interpretation of the Agreement shall be resolved by executive discussions at successive levels within both agencies culminating with the Deputy Attorney General for Civil Affairs and the UTA Chair of the Board of Trustees.

The Agreement shall be construed according the laws of the State of Utah with venue in a Utah state court of competent jurisdiction.

This Agreement shall be effective for a period of ten years unless terminated earlier by mutual agreement of the Parties or superseded by legislative direction. This agreement shall become effective upon signature by the authorized officials below and may only be modified or amended upon the consent of both agencies and in writing.

]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the day and year shown below.

DocuSigned by:

Kimberley Schmeling

DC139781D9F14C4...

Kimberley Brown Schmeling
Chief Operating and Financial Officer
State of Utah Attorney General's Office

Date: 4/30/2020

DocuSigned by:

Carolyn Gonot

0C1EDCBAD5D7410...

Carolyn M. Gonot
Executive Director
Utah Transit Authority

Date: 4/30/2020

DocuSigned by:

Mark E. Burns

0F532A8EF1D346A...

Mark E. Burns
Highways & Utilities Division Director
State of Utah Attorney General's Office

Date: 4/30/2020

DocuSigned by:

Robert K. Biles

9DCFF57B3DEA422...

Robert K. Biles
Chief Financial Officer
Utah Transit Authority

Date: 4/15/2020

DocuSigned by:

David Wilkins

CA25CE8F60E344B...

David Wilkins
Transit Section Director
State of Utah Attorney General's Office

Date: 4/15/2020

Schedule A

Scope of Services

The Attorney General, with concurrence from UTA's Executive Director, shall provide the appropriate number of legal personnel, but in no event less than three (3) full-time and one (1) part-time equivalent staff, in order to provide legal advice, representation and guidance in all matters requiring legal involvement and to perform any and all legal services required by UTA. Additional legal support from other specific sections (e.g. litigation, torts) of the Attorney General's Office will be utilized on an ad hoc basis where required upon mutual agreement of the UTA Executive Director and the Attorney General in-house Section Director.

Schedule B

Administration of Costs

Direct Costs for AG Legal Services: The Attorney General shall bill UTA in accordance with the Internal Service Fund (ISF) rate schedule approved in HB 8, 2020 General Session (STATE AGENCY FEES AND INTERNAL SERVICE FUND RATE - AUTHORIZATION AND APPROPRIATIONS). Billings for future years shall continue to be in accordance with the ISF rate schedule approved by the legislature for the respective fiscal year.

Using the resources outlined in Exhibit A, plus any additional legal support mutually agreed to between the parties, the Attorney General will provide legal assistance on matters as requested by UTA. The one (1) part-time attorney shall be located at Attorney General Civil Division offices with other attorneys located in-house at UTA's FLHQ offices. Attorney General. The parties agree that the UTA Executive Director must approve the assistant attorneys general who are assigned to serve in these positions. The number of attorneys assigned to support UTA may be adjusted to meet UTA's needs based on a bilateral amendment to this Memorandum of Agreement.

Office Equipment. UTA shall provide co-located attorneys with office space, together with appropriate office furniture and equipment, communication equipment and connection, such as computer, e-mail connection, cell phone, office phone and supplies necessary to conduct day-to-day business. Attorney General initiated expenditures for the types of office equipment items described above in excess of \$1000 shall be approved by the Executive Director. The Chief Financial Officer (CFO) shall approve expenditures between \$100 and \$1000.

Travel. Travel for UTA business shall be funded by UTA. All requests for travel funding exceeding \$1000 shall be approved by the Executive Director. The Chief Financial Officer (CFO) shall approve UTA expenditures between \$100 and \$1000.

Training. Funding for training courses, seminars or conferences which are necessary to provide accurate and current legal guidance to UTA and qualifies for continuing legal education (CLE) shall be shared by UTA and the Attorney General on an equal basis. Costs for training which is wholly in support of UTA requirements and does not fulfill a continuing legal education requirement shall be borne completely by UTA. Associated travel expenses shall be treated as part of the training costs described above. Requests that UTA fund training costs excess of \$1000 shall be approved by the Executive Director. The Chief Financial Officer (CFO) shall approve requests for UTA training expenditures between

\$100 and \$1000.

Litigation Related Direct Costs: UTA shall pay all direct costs related to litigation or other legal work, including but not limited to, court reporter and deposition costs, expert witnesses, consultants, process service, travel, lodging, preparation of exhibits and printing. UTA which may provide a vehicle for in-state travel in lieu of mileage reimbursement.

Subject to the foregoing, the bills for direct costs shall be sent to UTA for payment upon approval by an in-house Assistant Attorney General.

Amendment One
To
MEMORANDUM OF AGREEMENT
Between
UTAH TRANSIT AUTHORITY
And
UTAH ATTORNEY GENERAL’S OFFICE

THIS AMENDMENT ONE to the MEMORANDUM OF AGREEMENT represents an understanding between the Utah Attorney General’s Office (AGO) and the Utah Transit Authority (UTA) (hereinafter the “Parties”), effective upon the date of last signature below.

WHEREAS, the AGO and UTA entered into a Memorandum of Agreement (MOA) with an effective date of April 30, 2020, which defines the scope of services provided by assigned AGO attorneys to UTA and also the Administration of Costs and items of support provided to assigned AGO attorneys by UTA; and

WHEREAS, the AGO has employed an additional Assistant Attorney General (AAG) and also an Equal Employment Opportunity (EEO) investigator to reside at and support UTA, both of whom shall report to the AGO Transit Section Director; and

WHEREAS, the additional AAG shall perform duties consistent with Schedule A of the MOA and receive logistical support consistent with Schedule B of the MOA; and

WHEREAS, UTA will compensate the AGO for the full cost of the investigator’s salary and benefits; and

WHEREAS, the EEO investigator shall receive the same logistical, travel, training, and other support it provides to the AGO attorneys as described in Schedule B of the MOA;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

1. The following additional provisions shall be added to Schedule B of the Memorandum of Agreement dated April 30, 2020, between the Parties:

Direct Costs for AGO Investigator Services: The AGO shall bill UTA directly for the full cost of the investigator, including both salary and benefits.

Support for Investigator: UTA shall provide the same level of logistical, travel, training and other support which it provides the in-house AGO attorneys as described in Schedule B of the MOA.

Additional AAG: An additional AAG shall be added to the UTA legal staff. The additional attorney shall be governed in all respects by the terms and conditions of the MOA.

2. All other provisions of the Memorandum of Agreement between the Parties dated April 30, 2020, remain valid and of full force and effect.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the day and year last shown below.

Signed by:

Scott Mecham

68447E1E79D049F...

Scott Mecham

Chief of Staff

State of Utah Attorney General's Office

Date: 1/24/2025

Jay Fox

Executive Director

Utah Transit Authority

Date:

Signed by:

Michelle Lombardi

C1C88F561DFD480...

Michelle Lombardi

Tax and Financial Services Division Director

State of Utah Attorney General's Office

Date: 1/24/2025

Signed by:

Viola Miller

6E67BAEE558445A...

Viola Miller

Chief Financial Officer

Utah Transit Authority

Date: 1/24/2025

Signed by:

David Wilkins

CA25CE8F60E344B...

David Wilkins

Transit Section Director

State of Utah Attorney General's Office

Date: 1/24/2025



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
THROUGH: Jay Fox, Executive Director
FROM: Dave Hancock, Chief Capital Services Officer
PRESENTER(S): Jared Scarbrough, Director of Capital Design & Construction

TITLE:

Contract: Construction Services Agreement for UVX 900 East Station (Calvin L Wadsworth Construction Company, LLC)

AGENDA ITEM TYPE:

Procurement Contract/Change Order

RECOMMENDATION:

Approve and authorize the Executive Director to execute the contract and associated disbursements with Calvin L Wadsworth Construction Company, LLC in the amount of \$2,346,888.02 for the construction of a new Utah Valley Express (UVX) station.

BACKGROUND:

UTA advertised and selected a Contractor through a IFB selection process for this project and Cal Wadsworth was selected because their bid was the lowest and, therefore, was the most advantageous bidder to UTA.

DISCUSSION:

UTA staff is requesting approval of the contract, not-to-exceed \$2,346,888.02 over a two (2) year period.

This contract will allow Cal Wadsworth to construct a new station for UVX at 900 East and approximately 1100 North near the new BYU School of Music building, which has been anticipated and planned for once ridership warranted construction. UTA has since determined that sufficient ridership now exists for the stop and Congestion Mitigation and Air Quality (CMAQ) funding has been obtained to proceed with construction.

CONTRACT SUMMARY:

Contractor Name:	Calvin L Wadsworth Construction Company, LLC
Contract Number:	24-03891
Base Contract Effective Dates:	February 15, 2025 - May 1, 2026
Extended Contract Dates:	n/a
Existing Contract Value:	n/a
Amendment Amount:	n/a
New/Total Contract Value:	\$2,346,888.02
Procurement Method:	IFB
Budget Authority:	Approved 2025 Capital Budget

ALTERNATIVES:

If this contract is not approved, the planned station would not be constructed and the grant money obtained for the project would be lost.

FISCAL IMPACT:

Funds are available in the 2025 capital budget to cover these costs. All funds will come from the MSP287 UVX 900 East capital project in the 2025-2029 Five Year Capital Plan.

The majority of these costs are offset with CMAQ funds from MAG.

2025 Budget: \$3,211,000 (available)

2025 Expense: \$2,340,888.02

2026 Plan Amount: \$212,000

2026 Planned Expense: \$6,000

ATTACHMENTS:

- Contract: Construction Services Agreement: 900 East UVX (Calvin L Wadsworth Construction Company, LLC)

CONSTRUCTION SERVICES AGREEMENT

24-03891VW 900 E UVX

This Construction Services Agreement is entered into and made effective as of the date of last signature below (the "Effective Date") by and between UTAH TRANSIT AUTHORITY, a public transit district organized under the laws of the State of Utah ("UTA"), and Calvin L Wadsworth Construction Company LLC ("Contractor").

RECITALS

- A. UTA desires to hire Contractor for 900 E UVX to add an additional BRT Station per the Specifications and Bid Schedule included in the IFB.
- B. On October 17, 2024, UTA issued Invitation to Bid Package Number 24-03891VW ("IFB") encouraging interested parties to submit proposals to perform the services described in the IFB.
- C. Upon evaluation of the proposals submitted in response to the IFB, UTA selected Contractor as the preferred entity with whom to negotiate a contract to perform the Work.
- D. Contractor is qualified and willing to perform the Work as set forth in the Scope of Services.

AGREEMENT

NOW, THEREFORE, in accordance with the foregoing Recitals, which are incorporated herein by reference, and for and in consideration of the mutual covenants and agreements hereafter set forth, the mutual benefits to the parties to be derived herefrom, and for other valuable consideration, the receipt and sufficiency of which the parties acknowledge, it is hereby agreed as follows:

1. SERVICES TO BE PROVIDED

- a. Contractor shall perform all Work as set forth in the Scope of Services (Exhibit A). Except for items (if any) which this Contract specifically states will be UTA-provided, Contractor shall furnish all the labor, material and incidentals necessary for the Work.
- b. Contractor shall perform all Work under this Contract in a professional manner, using at least that standard of care, skill and judgment which can reasonably be expected from similarly situated professionals.
- c. All Work shall conform to generally accepted standards in the transit industry. Contractor shall perform all Work in compliance with applicable laws, regulations, rules, ordinances, permit constraints and other legal requirements including, without limitation, those related to safety and environmental protection.

- d. Contractor shall furnish only qualified personnel and materials necessary for the performance of the Work.
- e. When performing Work on UTA property, Contractor shall comply with all UTA work site rules including, without limitation, those related to safety and environmental protection.

2. MANAGEMENT OF WORK

- a. Contractor's Project Manager will be the day-to-day contact person for Contractor and will be responsible for all Work, as well as the coordination of such Work with UTA.
- b. UTA's Project Manager will be the day-to-day contact person for UTA, and shall act as the liaison between UTA and Contractor with respect to the Work. UTA's Project Manager shall also coordinate any design reviews, approvals or other direction required from UTA with respect to the Work.

3. PROGRESS OF WORK

- a. Contractor shall prosecute the Work in a diligent and continuous manner and in accordance with all applicable notice to proceed, critical path schedule and guaranteed completion date requirements set forth in (or developed and agreed by the parties in accordance with) the Scope of Services.
- b. Contractor shall conduct regular meetings to update UTA's Project Manager regarding the progress of the Work including, but not limited to, any unusual conditions or critical path schedule items that could affect or delay the Work. Such meetings shall be held at intervals mutually agreed to between the parties.
- c. Contractor shall deliver monthly progress reports and provide all Contract submittals and other deliverables as specified in the Scope of Services.
- d. Any drawing or other submittal reviews to be performed by UTA in accordance with the Scope of Services are for the sole benefit of UTA, and shall not relieve Contractor of its responsibility to comply with the Contract requirements.
- e. UTA will have the right to inspect, monitor and review any Work performed by Contractor hereunder as deemed necessary by UTA to verify that such Work conforms to the Contract requirements. Any such inspection, monitoring and review performed by UTA is for the sole benefit of UTA, and shall not relieve Contractor of its responsibility to comply with the Contract requirements.
- f. UTA shall have the right to reject Work which fails to conform to the requirements of this Contract. Upon receipt of notice of rejection from UTA, Contractor shall (at its sole expense and without entitlement to equitable schedule relief) promptly re-perform, replace or re-execute the Work so as to conform to the Contract requirements.
- g. If Contractor fails to promptly remedy rejected Work as provided in Section 3.6, UTA may (without limiting or waiving any rights or remedies it may have) perform necessary corrective action using other contractors or UTA's own forces. Any costs reasonably incurred by UTA in such corrective action shall be chargeable to Contractor.

4. PERIOD OF PERFORMANCE

This Contract shall commence as of the Effective Date. This Contract shall remain in full force and effect until all Work is completed in accordance with this Contract, as reasonably determined by UTA.

Contractor shall complete all Work no later than May 1, 2026. This guaranteed completion date may be extended if Contractor and UTA mutually agree to an extension evidenced by a written Change Order. The rights and obligations of UTA and Contractor under this Contract shall at all times be subject to and conditioned upon the provisions of this Contract.

5. COMPENSATION

- a. For the performance of the Work, UTA shall pay Contractor a not-to-exceed amount of which is conditioned upon evaluation and approval of payment by UTA, for a total not-to-exceed (NTE) amount of \$2,346,888.02, in accordance with the payments provisions described in Exhibit B.
- b. To the extent that Exhibit B or another provision of this Contract calls for any portion of the consideration to be paid on a cost-reimbursement basis, such costs shall only be reimbursable to the extent allowed under 2 CFR Part 200 Subpart E. Compliance with federal cost principles shall apply regardless of funding source for this Contract.
- c. To the extent that Exhibit B or another provision of this Contract calls for any portion of the consideration to be paid on a time and materials or labor hour basis, then Contractor must refer to the not-to-exceed amount, maximum Contract amount, Contract budget amount or similar designation (any of these generically referred to as the "Not to Exceed Amount") specified in Exhibit B (as applicable). Unless and until UTA has notified Contractor by written instrument designated or indicated to be a Change Order that the Not to Exceed Amount has been increased (which notice shall specify a revised Not to Exceed Amount): (i) Contractor shall not be obligated to perform services or incur costs which would cause its total compensation under this Contract to exceed the Not to Exceed Amount; and (ii) UTA shall not be obligated to make payments which would cause the total compensation paid to Contractor to exceed the Not to Exceed Amount.
- d. UTA may withhold and/or offset from payment any amounts reasonably reflecting: (i) items of Work that have been rejected by UTA in accordance with this Contract; (ii) invoiced items that are not payable under this Contract; or (iii) amounts Contractor owes to UTA under this Contract.

6. INCORPORATED DOCUMENTS

- a. The following documents hereinafter listed in chronological order, with most recent document taking precedence over any conflicting provisions contained in prior documents (where applicable), are hereby incorporated into the Contract by reference and made a part hereof:
 1. The terms and conditions of this Construction Services Agreement
 2. The Addendum 1 Supplemental Terms and Conditions for Construction Services. (including any exhibits and attachments hereto).
 3. Contractor's Proposal including, without limitation, all federal certifications (as applicable);
 4. UTA's IFB including, without limitation, all attached or incorporated terms, conditions, federal clauses (as applicable), drawings, plans, specifications and standards and other descriptions of the Construction Services;

b. The above-referenced documents are made as fully a part of the Contract as if hereto

7. ORDER OF PRECEDENCE

The Order of Precedence for this contract is as follows:

1. UTA Contract including all terms and conditions, exhibits, and attachments
2. Addendum 1 Supplemental Terms and Conditions for Construction Services
3. UTA Solicitation Terms
4. Contractor's Bid or Proposal including proposed terms or conditions

Any contractor proposed term or condition which is in conflict with a UTA contract or solicitation term or condition will be deemed null and void.

8. INVOICING PROCEDURES

a. Contractor shall invoice UTA after achievement of contractual milestones or delivery of all Goods and satisfactory performance of all Services or in accordance with an approved progress or periodic billing schedule. Contractor shall submit invoices to project manager Andrea Pullos at apullos@rideuta.comuta.com for processing and payment. In order to timely process invoices, Contractor shall include the following information on each invoice:

- i. Contractor Name
- ii. Unique Invoice Number
- iii. PO Number
- iv. Invoice Date
- v. Detailed Description of Charges
- vi. Total Dollar Amount Due

b. UTA shall have the right to disapprove (and withhold from payment) specific line items of each invoice to address non-conforming Software or Services. Approval by UTA shall not be unreasonably withheld. UTA shall also have the right to offset (against payments) amounts reasonably reflecting the value of any claim which UTA has against Contractor under the Contract. Payment for all invoice amounts not specifically disapproved or offset by UTA shall be provided to Contractor within thirty (30) calendar days of invoice submittal to project manager Andrea Pullos at apullos@rideuta.comuta.com. Invoices not submitted electronically will shall be paid thirty (30) calendar days from date of receipt by UTA's accounting department.

c. Invoices must include a unique invoice number, UTA's Purchase Order number, a description of the Good or Service provided, line-item pricing, total amount due, and must be submitted electronically to project manager Andrea Pullos at apullos@rideuta.comuta.com.

9. OWNERSHIP OF DESIGNS, DRAWINGS, AND WORK PRODUCT

Any deliverables prepared or developed pursuant to the Contract including without limitation drawings, specifications, manuals, calculations, maps, sketches, designs, tracings, notes, reports, data,

computer programs, models and samples, shall become the property of UTA when prepared, and, together with any documents or information furnished to Contractor and its employees or agents by UTA hereunder, shall be delivered to UTA upon request, and, in any event, upon termination or final acceptance of the Goods and Services. UTA shall have full rights and privileges to use and reproduce said items. To the extent that any deliverables include or incorporate preexisting intellectual property of Contractor, Contractor hereby grants UTA a fully paid, perpetual license to use such intellectual property for UTA's operation, maintenance, modification, improvement and replacement of UTA's assets. The scope of the license shall be to the fullest extent necessary to accomplish those purposes, including the right to share same with UTA's contractors, agent, officers, directors, employees, joint owners, affiliates and Contractors.

10. USE OF SUBCONTRACTORS

- a. Contractor shall give advance written notification to UTA of any proposed subcontract (not indicated in Contractor's Proposal) negotiated with respect to the Work. UTA shall have the right to approve all subcontractors, such approval not to be withheld unreasonably.
- b. No subsequent change, removal or substitution shall be made with respect to any such subcontractor without the prior written approval of UTA.
- c. Contractor shall be solely responsible for making payments to subcontractors, and such payments shall be made within thirty (30) days after Contractor receives corresponding payments from UTA.
- d. Contractor shall be responsible for and direct all Work performed by subcontractors.
- e. Contractor agrees that no subcontracts shall provide for payment on a cost-plus-percentage-of-cost basis. Contractor further agrees that all subcontracts shall comply with all applicable laws.

11. KEY PERSONNEL

Contractor shall provide the key personnel as indicated in Contractor's Proposal (or other applicable provisions of this Contract), and shall not change any of said key personnel without the express written consent of UTA.

12. INFORMATION, RECORDS and REPORTS; AUDIT RIGHTS

Contractor shall retain all books, papers, documents, accounting records and other evidence to support any cost-based billings allowable under Exhibit B (or any other provision of this Contract). Such records shall include, without limitation, time sheets and other cost documentation related to the performance of labor services, as well as subcontracts, purchase orders, other contract documents, invoices, receipts or other documentation supporting non-labor costs. Contractor shall also retain other books and records related to the performance, quality or management of this Contract and/or Contractor's compliance with this Contract. Records shall be retained by Contractor for a period of at least six (6) years after completion of the Work, or until any audit initiated within that six-year period has been completed (whichever is later). During this six-year period, such records shall be made available at all reasonable times for audit and inspection by UTA and other authorized auditing parties including, but not limited to, the Federal Transit Administration. Copies of requested records shall be furnished to UTA or designated audit parties upon request. Contractor agrees that it shall flow-down (as a matter of written contract) these records requirements to all subcontractors utilized in the

performance of the Work at any tier.

13. FINDINGS CONFIDENTIAL

Any documents, reports, information, or other data and materials delivered or made available to or prepared or assembled by Contractor or subcontractor under this Contract are considered confidential and shall not be made available to any person, organization,

or entity by Contractor without consent in writing from UTA. If confidential information is released to any third party without UTA's written consent as described above, contractor shall notify UTA of the data breach within 10 days and provide its plan for immediate

mitigation of the breach for review and approval by UTA.

a. It is hereby agreed that the following information is not considered to be confidential:

1. Information already in the public domain.
2. Information disclosed to Contractor by a third party who is not under a confidentiality obligation.
3. Information developed by or in the custody of Contractor before entering into this Contract.
4. Information developed by Contractor through its work with other clients; and
5. Information required to be disclosed by law or regulation including, but not limited to, subpoena, court order or administrative order.

14. PUBLIC INFORMATION.

Contractor acknowledges that the Contract and related materials (invoices, orders, etc.) will be public documents under the Utah Government Records Access and Management Act (GRAMA). Contractor's response to the solicitation for the Contract will also be a public document subject to GRAMA, except for legitimate trade secrets, so long as such trade secrets were properly designated in accordance with terms of the solicitation.

15. GENERAL INDEMNIFICATION – see Article 6 of Special Provisions

16. INSURANCE REQUIREMENTS – see Article 7 of Special Provisions

17. OTHER INDEMNITIES -see Article 6 of Special Provisions

18. INDEPENDENT CONTRACTOR

Contractor is an independent contractor and agrees that its personnel will not represent themselves as, nor claim to be, an officer or employee of UTA by reason of this Contract. Contractor is responsible to provide and pay the cost of all its employees' benefits.

19. PROHIBITED INTEREST

No member, officer, agent, or employee of UTA during his or her tenure or for one year thereafter shall

have any interest, direct or indirect, including prospective employment by Contractor in this Contract or the proceeds thereof without specific written authorization by UTA.

20. CLAIMS/DISPUTE RESOLUTION - see Article 11 of Special Provisions

21. GOVERNING LAW

This Contract shall be interpreted in accordance with the substantive and procedural laws of the State of Utah. Any litigation between the parties arising out of or relating to this Contract will be conducted exclusively in federal or state courts in the State of Utah and Contractor consents to the jurisdiction of such courts.

22. ASSIGNMENT OF CONTRACT

Contractor shall not assign, sublet, sell, transfer, or otherwise dispose of any interest in this Contract without prior written approval of UTA, and any attempted transfer in violation of this restriction shall be void.

23. NONWAIVER

No failure or waiver or successive failures or waivers on the part of either party in the enforcement of any condition, covenant, or article of this Contract shall operate as a discharge of any such condition, covenant, or article nor render the same invalid, nor impair the right of either party to enforce the same in the event of any subsequent breaches by the other party.

24. NOTICES OR DEMANDS

Any formal notice or demand to be given by one party to the other shall be given in writing by one of the following methods: (i) hand delivered; (ii) deposited in the mail, properly stamped with the required postage; (iii) sent via registered or certified mail; or (iv) sent via recognized overnight courier service. All such notices shall be addressed as follows:

If to UTA:
Utah Transit Authority
ATTN: Vicki Woodward
669 West 200 South
Salt Lake City, UT 84101

with a required copy to
Utah Transit Authority
ATTN: Legal Counsel
669 West 200 South
Salt Lake City, UT 84101

If to Contractor:
Calvin L Wadsworth Construction Company LLC
Cal Wadsworth, President
392 E 12300 S, Suite F
Draper, UT 84020

- a. Any such notice shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the party to which the notice is directed; provided,

however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice. Either party may change the address at which such party desires to receive written notice by providing written notice of such change to any other party.

- b. Notwithstanding the above, the parties may, through mutual agreement, develop alternative communication protocols to address change notices, requests for information and similar categories of communications. Communications provided pursuant to such agreed means shall be recognized as valid notices under this Contract.

25. CONTRACT ADMINISTRATOR

UTA's Contract Administrator for this Contract is Vicki Woodward, or designee. All questions and correspondence relating to the contractual aspects of this Contract should be directed to said Contract Administrator, or designee.

26. INSURANCE COVERAGE REQUIREMENTS FOR CONTRACTOR EMPLOYEES – see Article 8 of Special Provision

27. COSTS AND ATTORNEYS FEES

If any party to this Agreement brings an action to enforce or defend its rights or obligations hereunder, the prevailing party shall be entitled to recover its costs and expenses, including mediation, arbitration, litigation, court costs and attorneys' fees, if any, incurred in connection with such suit, including on appeal

28. NO THIRD-PARTY BENEFICIARY

The parties enter into this Contract for the sole benefit of the parties, in exclusion of any third-party, and no third-party beneficiary is intended or created by the execution of this Contract.

29. FORCE MAJEURE

Neither party to the Contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which are beyond that party's reasonable control. UTA may terminate the Contract after determining such delay or default will reasonably prevent successful performance of the Contract.

30. SEVERABILITY

Any provision of this Contract prohibited or rendered unenforceable by operation of law shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Contract.

31. UTAH ANTI-BOYCOTT OF ISRAEL ACT

Contractor agrees it will not engage in a boycott of the State of Israel for the duration of this contract.

32. ENTIRE AGREEMENT

This Contract shall constitute the entire agreement and understanding of the parties with respect to the subject matter hereof, and shall supersede all offers, negotiations and other agreements with respect thereto. The terms of the Contract supersede any additional or conflicting terms or provisions that may be preprinted on Vendor's work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of Vendor that may subsequently be used to implement, record, or invoice Goods and/or Services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of UTA. The terms of the Contract prevail in any dispute between the terms of the Contract and the terms printed on any such standard forms or documents, and such standard forms or documents will not be considered written amendments of the Contract.

33. AMENDMENTS

Any amendment to this Contract must be in writing and executed by the authorized representatives of each party.

34. COUNTERPARTS

This Contract may be executed in any number of counterparts and by each of the parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Any signature page of the Contract may be detached from any counterpart and reattached to any other counterpart hereof. The electronic transmission of a signed original of the Contract or any counterpart hereof and the electronic retransmission of any signed copy hereof shall be the same as delivery of an original.

35. SURVIVAL

Provisions of this Contract intended by their nature and content to survive termination of this Contract shall so survive including, but not limited to, Articles 5, 7, 8, 10, 14, 15, 17, 18, 19, 20, 23, 29 and 30.

UTAH TRANSIT AUTHORITY:

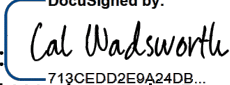
By:
Jay Fox
Executive Director

Date:

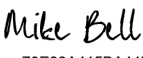
By:
David Hancock
Chief Service Development Officer

Approved as to Content and Form

**CALVIN L WADSWORTH
CONSTRUCTION COMPANY, LLC:**

DocuSigned by:
By: 
713CEDD2E9A24DB...
Cal Wadsworth, President
Fed ID#83-1509086

1/15/2025

DocuSigned by:
By: 
70F33A415BA44F6...
Mike Bell, AAG State of Utah
And UTA Legal Counsel

Date: 1/15/2025

Reviewed & Recommended

By:
Andrea Pullos,
UTA Project Manager

Date:

Design and/or Construction Special Provisions

ARTICLE 1

General

1.1 **Cooperation.** UTA and Contractor commit at all times to cooperate fully with each other, and proceed on the basis of trust and good faith, so as to permit each party to realize the benefits afforded under the Contract Documents.

1.2 **Professional Standards.** Contractor shall perform the Work in a good and workmanlike manner, and shall use reasonable skill, care, and diligence. If the Work includes professional services, Contractor shall perform those services in a professional manner, using at least that standard of care, skill and judgment that can reasonably be expected from similarly situated professionals.

1.3 **Definitions.** Terms that are defined in the Agreement have the same definition in all the Contract Documents, including in these General Conditions. Unless expressly modified by the Agreement, the following definitions shall also apply to all Contract Documents:

“Agreement” means the document signed by Contractor and UTA to which these General Conditions are attached as an exhibit or into which these General Conditions are incorporated by reference.

“Application for Payment” shall mean an invoice for a progress or final payment made in accordance with the requirements of Article 4.

“Basis of Design Documents” means those preliminary drawings, concept design drawings, technical requirements, performance requirements, project criteria, or other documents that are (i) included in the Contract Documents, and (ii) serve as the basis or starting point for design services to be performed by Contractor, if any.

“Claim” has the meaning indicated in Section 8.1 of these General Conditions.

“Construction Documents” means the final drawings and specifications that set forth in detail the requirements for construction of the Project.

“Contract Documents” means those documents designated as Contract Documents in the Agreement.

“Contract Times” means the guaranteed dates for Substantial Completion, Final Completion (if applicable), and any other deadlines for completion of the Work, or a part thereof, all as set forth in the Agreement.

“Contractor” means the entity that has entered into a contract with UTA to perform construction and other services as detailed in the Contract Documents. The Contractor

may be a Design-Builder, general contractor, Construction Manager/General Contractor, or other type of entity.

“Day” means a calendar day unless otherwise specifically noted in the Contract Documents.

“Differing Site Condition” has the meaning indicated in Section 3.2 of these General Conditions.

“Final Completion” has the meaning indicated in Section 4.7 of these General Conditions.

“Force Majeure Event” means a delay caused by any national or general strikes, fires, riots, acts of God, acts of the public enemy, floods, acts of terrorism, unavoidable transportation accidents or embargoes, or other events: (i) which are not reasonably foreseeable as of the date the Agreement was executed; (ii) which are attributable to a cause beyond the control and without the fault or negligence of the party incurring such delay; and (iii) the effects of which cannot be avoided or mitigated by the party claiming such Force Majeure Event through the use of commercially reasonable efforts. The term Force Majeure Event does not include a delay caused by seasonal weather conditions, inadequate construction forces, general economic conditions, changes in the costs of goods, or Contractor’s failure to place orders for equipment, materials, construction equipment or other items sufficiently in advance to ensure that the Work is completed in accordance with the Contract Documents.

“General Conditions” means this document.

“Legal Requirements” means all applicable federal, state, and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work including, without limitation, those related to safety and environmental protection. The terms Legal Requirements shall also include any requirements or conditions included in a permit required for, or issued in conjunction with, the Project.

“Potential Change Notice” has the meaning indicated in Section 7.3 of these General Conditions.

“Project” means the construction project described in the Agreement.

“Punchlist” means shall mean a schedule of Work items (developed in accordance with the procedures described in Article 4) which remain to be completed prior to Final Completion, but which do not adversely affect the performance, operability, capacity, efficiency, reliability, cost effectiveness, safety or use of the Project after Substantial Completion.

“Schedule of Values” means the detailed statement furnished by Contractor and approved by UTA in accordance with Section 4.1, which statement outlines the various components of the Contract Price and allocates values for all such components in a manner that can be used for preparing and reviewing invoices.

“Site” means the land or premises on which the Project is located, as more particularly defined and described in the Contract Documents.

“Subcontractor” means any person or entity (including subcontractors at any tier, design engineers, laborers and materials suppliers) retained by Contractor or any other Subcontractor to perform a portion of Contractor’s obligations under the Contract Documents.

“Substantial Completion” or “Substantially Complete” has the meaning indicated in Section 4.6 of these General Conditions.

“Work” means all obligations, duties, requirements, and responsibilities for the successful completion of the Project by Contractor, including furnishing of all services and/or equipment (including obtaining all applicable licenses and permits to be acquired by Contractor) in accordance with the Contract Documents.

ARTICLE 2

Contractor’s Services

2.1 General Services.

2.1.1 Contractor’s Project Manager shall be reasonably available to UTA and shall have the necessary expertise and experience required to supervise the Work. Contractor’s Project Manager shall communicate regularly with UTA and shall be vested with the authority to act on behalf of Contractor.

2.1.2 Contractor shall provide UTA with a monthly status report detailing the progress of the Work, including: (i) whether the Work is proceeding according to schedule; (ii) whether discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution; (iii) whether unusual health and safety issues exist in connection with the Work; and (iv) other items that require resolution so as not to jeopardize Contractor’s ability to complete the Work for the Contract Price and within the Contract Time(s).

2.1.3 Unless a schedule for the execution of the Work has been attached to the Agreement as an exhibit at the time the Agreement is executed, Contractor shall prepare and submit, within seven (7) Days of the execution of the Agreement, a schedule for the execution of the Work for UTA’s review and response. The schedule must indicate the dates for the start and completion of the various stages of Work,

including the required dates when UTA obligations must be completed to enable Contractor to achieve the Contract Time(s). Such UTA obligation dates may include (where contemplated in the Contract Documents): (i) Site availability requirements; and/or (ii) dates when UTA information or approvals are required. The schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve Contractor of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents. UTA's review of, and response to, the schedule shall not be construed as relieving Contractor of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

2.2 Design Services. If the Work includes any design services, provisions 2.2.1 through 2.2.8 apply.

2.2.1 Contractor shall provide the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Contractor to complete the Work consistent with the Contract Documents. Contractor shall ensure that design services are performed by qualified, licensed design professionals employed by Contractor, or by qualified, independent licensed design contractors procured by Contractor.

2.2.2 Contractor and UTA shall, consistent with any applicable provision of the Contract Documents, agree upon any interim design submissions that UTA may wish to review, which interim design submissions may include design criteria, drawings, diagrams, and specifications setting forth the Project requirements. Interim design submissions must be consistent with the Basis of Design Documents, as the Basis of Design Documents may have been changed through the design process set forth in this Section 2.2.2. On or about the time of the scheduled submissions, Contractor and UTA shall meet and confer about the submissions, with Contractor identifying during such meetings, among other things, the evolution of the design and any changes to the Basis of Design Documents, or, if applicable, previously submitted design submissions. Changes to the Basis of Design Documents shall be processed in accordance with Article 7. Minutes of the meetings, including a full listing of all changes, will be maintained by Contractor and provided to all attendees for review. Following the design review meeting, UTA will be entitled to at least ten (10) Days to review and approve the interim design submissions and meeting minutes.

2.2.3 To the extent not prohibited by the Contract Documents or Legal Requirements, and with the approval of UTA, Contractor may prepare interim design submissions and Construction Documents for a portion of the Work to permit construction to

proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

2.2.4 Contractor shall submit proposed Construction Documents to UTA, which must be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting and recorded in the meeting minutes. The parties shall have a design review meeting to discuss, and UTA shall review and approve, the Construction Documents in accordance with the procedures set forth in Section 2.2.2 above. Contractor shall submit one set of approved Construction Documents to UTA prior to commencement of construction

2.2.5 UTA's review and approval of interim design submissions, meeting minutes, and Construction Documents is for the purpose of mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. Neither UTA's review nor approval of any interim design submissions, meeting minutes, and Construction Documents shall be deemed to: (i) relieve Contractor from its obligations to comply with the Contract Documents; (ii) relieve Contractor from its obligations with respect to the accuracy of the design submittals; or (iii) transfer any design liability from Contractor to UTA.

2.2.6 Upon completion of the Work, and as a condition to receiving final payment pursuant to Section 4.7, Contractor shall prepare and provide to UTA a final set of as-built drawings, depicting the Project as completed, including all changes to the Project made subsequent to the approval of the Construction Documents.

2.2.7 All drawings, specifications, interim design submissions, Construction Documents, and other documents furnished by Contractor to UTA pursuant to the Contract Documents (those documents, the "Work Product") are deemed to be instruments of service and Contractor shall retain the ownership and intellectual property rights therein.

2.2.8 Once UTA has made a corresponding payment for the Work required for Contractor to prepare any Work Product, Contractor will be deemed to have granted to UTA a license to use that Work Product in connection with the construction, occupancy, and maintenance of the Project, or any other UTA project or facility.

2.3 **Government Approvals, Permits, and Legal Requirements.**

2.3.1 Except where the Contract Documents expressly state that UTA will be responsible for a specific entitlement, Contractor shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project or Site. Contractor shall provide reasonable assistance

to UTA in obtaining any permits, approvals, and licenses that the Contract Documents expressly specify to be a UTA responsibility.

2.3.2 Contractor shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

2.3.2 Contractor shall file a notice of commencement, a notice of completion, and other notices required by Utah Code Title 38 (Liens). Contractor shall file such notices in the manner and within the time periods required by law.

2.3.3 The Contract Price and/or Contract Time(s) will be adjusted to compensate Contractor for the effects of any changes in the Legal Requirements provided that such changes: (i) materially increase Contractor's cost of, or time required for, the performance of the Work; and (ii) are enacted after the effective date of the Agreement.

2.4 **Construction Services.**

2.4.1 Contractor shall proceed with construction in accordance with the approved Construction Documents.

2.4.2 Except to the extent that the Contract Documents expressly identify UTA obligations related to the Work, Contractor shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities (whether or not expressly stated or depicted in the Contract Documents or Construction Drawings) to permit Contractor to complete construction of the Project consistent with the Contract Documents.

2.4.3 Contractor is responsible for securing the Site until UTA issues a Certificate of Substantial Completion.

2.4.4 Contractor shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Contractor shall at all times exercise complete and exclusive control over the means, methods, sequences, techniques and procedures of construction.

2.4.5 Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall take necessary precautions for the safety of, and shall provide necessary protection to prevent damage, injury or loss to the following: (i) all Contractor, Subcontractor, UTA employees, the public and other persons who may be affected thereby; (ii) all Work and all equipment and materials to be incorporated into the Work; and (iii) other property at the Site or adjacent thereto. Contractor shall

comply with the minimum standards imposed by UTA's Construction Safety and Security Program Manual, as updated from time to time (UTA's Construction Safety and Security Program Manual is incorporated into the Contract Documents by reference). However, Contractor shall be responsible for all additional as necessary to comply protect persons and property and comply with applicable Legal Requirements related to safety.

2.4.6 Contractor shall employ only Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents. UTA may require Contractor to remove from the Project a Subcontractor or anyone employed directly or indirectly by any Subcontractor, if UTA reasonably concludes that the Subcontractor is creating safety risks at the Site or quality risks to the Project.

2.4.7 Contractor is responsible for the proper performance of the Work by Subcontractors and for any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between UTA and any Subcontractor, including but not limited to any third-party beneficiary rights.

2.4.8 Contractor shall coordinate the activities of all of its Subcontractors. If UTA performs other work on the Project or at the Site with separate contractors under UTA's control, Contractor agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

2.4.9 Contractor shall keep the Site reasonably free from debris, trash and construction wastes to permit Contractor to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, Contractor shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit UTA to occupy the Project or a portion of the Project for its intended use.

2.5 Quality Control, Quality Assurance, Inspection, Rejection and Correction of Work.

2.5.1 Contractor shall develop a Project-specific construction quality control plan as contemplated in UTA's Quality Management Plan and Construction Quality Plan. The Contractor's plan shall satisfy the minimum requirement imposed by UTA's Construction Quality Plan and shall be sufficient to ensure that Work is performed in compliance with the Contract Documents. If the Work includes any design services, Contractor shall also develop and thereafter comply with a design quality plan that meets the minimum requirements set forth in the UTA Design Quality

Plan. The UTA Quality Management Plan, Construction Quality Plan and Design Quality Plan are incorporated into the Contract Documents by reference. The Contractor's plans shall be subject to UTA's review and approval.

2.5.2 Contractor shall comply with the approved quality control plan(s). Responsibilities shall include inspection and testing and related activities including administration, management, supervision, reports, record keeping and use of independent testing agencies and laboratories. Contractor shall provide evidence of compliance with the Contract Documents.

2.5.3 UTA will have the right to audit and spot check the Contractor's quality control procedures and documentation. This will include the Company's right to inspect and test all Work at reasonable times. Contractor shall cooperate with any inspection and testing performed by UTA. All contractor-furnished materials and supplies shall be subject to inspection at the point of manufacture.

2.5.2 Any inspection and testing performed by UTA shall be for the sole and exclusive benefit of UTA. Neither inspection and testing of Work, nor the lack of same nor acceptance of the Work by UTA, nor payment therefore shall relieve Contractor from any of its obligations under the Contract Documents.

2.5.3 At any time prior to Substantial Completion, UTA may reject Work which fails to conform to the Contract Documents. Contractor shall, at its sole expense, promptly re-perform or correct any Work so as to conform to the requirements of the Contract. Contractor shall not be entitled to an adjustment to the Contract Price and/or Contract Times with respect to any corrective action necessary to rectify non-conforming Work.

2.5.4 If Contractor fails to promptly remedy rejected Work, UTA may, without limiting or waiving any other rights or remedies it may have, self-perform (through its own forces or through other contractors) the necessary corrective action(s) and deduct all amounts so incurred from any amount then or thereafter due Contractor.

2.6 **Contractor's Warranty.**

2.6.1 Contractor warrants to UTA that all Work, including all materials and equipment furnished as part of the Work, shall be: (i) of good quality conforming to generally recognized industry standards; (ii) in conformance with the Contract Documents; (iii) free of defects in materials and workmanship; and (iv) consistent with applicable Legal Requirements. Without limiting the generality of the forgoing, Contractor also specifically warrants that any design, engineering or other professional services provided by Contractor shall be shall satisfy applicable professional standards of care and that all materials and that any equipment furnished as part of the construction shall be new (unless otherwise specified in

the Contract Documents). This provision is not intended to limit any manufacturer's warranty that provides UTA with greater warranty rights than set forth in this Section 2.6. Contractor shall provide UTA with all manufacturers' warranties upon Substantial Completion. Similarly, nothing in this Article is intended to limit any other express warranties set forth in the Contract Documents or to limit any other warranties implied by law, custom or usage of trade.

- 2.6.2 If Contractor becomes aware of any defect in the Work, or non-conformance with the Contract Documents, Contractor shall give prompt written notice of that defect or non-conformance to UTA.
- 2.6.3 Except as otherwise stated in the Agreement, Contractor shall correct any Work that does not comply with the warranties provided above for a period of two years following the date of Substantial Completion.
- 2.6.4 Contractor shall, within seven (7) Days of receipt of written notice from UTA that the Work does not comply with the warranties provided above, take meaningful steps to commence corrective action, including the correction, removal, replacement or re-performance of the nonconforming Work and the repair of any damage to other property caused the warranty failure. If Contractor fails to commence the necessary corrective action within such seven (7) Day period (or thereafter fails to continuously and diligently pursue such corrective action to completion), UTA may (in addition to any other remedies provided under the Contract Documents) provide Contractor with written notice that UTA will self-perform (through its own forces or through other contractors) correction of the warranty failure at Contractor's expense. If UTA performs (or causes to be performed) such corrective action, UTA may collect from Contractor all amounts so incurred. If the nonconforming Work creates an emergency requiring an immediate response, the seven (7) Day period identified above shall be deemed inapplicable.
- 2.6.5 The two-year period referenced in Section 2.6.3 above only applies to Contractor's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies UTA may have regarding Contractor's other obligations under the Contract Documents

ARTICLE 3

Bond Requirements

3.1 The contract value exceeds the small purchase threshold, contractor shall provide the following bonds:

3.1.1 A Bid Bond (or equivalent guaranty in the form of a letter of credit, certified check or other negotiable instrument deemed to be equivalent by the Authority) equal to five percent of the proposed Contract price securing performance in accordance with the Bid or Proposal provided with submission of bid or proposal.

3.1.2 A Performance Bond equal to 100% of the Contract price provided prior to formal contract execution; and

3.1.3 A Payment Bond equal to 100% of the Contract price provided prior to formal contract execution.

ARTICLE 4.0

Site Conditions

4.1 Hazardous Materials.

4.1.1 Unless otherwise expressly provided in the Contract Documents to be part of the Contractor's Work, Contractor is not responsible for any Hazardous Materials encountered at the Site. "Hazardous Materials" means any substance that: (i) is deemed a hazardous waste or substance under any environmental law; or (ii) might endanger the health of people exposed to it.

4.1.2 If Contractor discovers at the Site any substance the Contractor reasonably believes to be a Hazardous Material, Contractor shall immediately stop Work in the area of the discovery and immediately report the discovery to the UTA Project Manager. UTA shall determine how to deal with the Hazardous Material, and Contractor shall resume Work in the area when directed to do so by the UTA Project Manager.

4.1.3 Contractor will be entitled to an adjustment to the Contract Price and/or Contract Time(s) to the extent Contractor's cost and/or time of performance have been adversely impacted by the presence of Hazardous Materials.

4.1.4 The risk allocation and change provisions of Sections 3.1.1 through 3.1.3 do not apply to any Hazardous Materials introduced to the Site by Contractor, its Subcontractors, or anyone for whose acts Contractor is responsible. Those provisions also exclude Hazardous Materials that were properly stored and/or contained at the Site but thereafter released as a result of the Contractor's negligent performance of the Work. To the extent that Hazardous Materials are introduced and/or released at the Site by Contractor as described above in this Section 3.1.4, then: (i) to the fullest extent permitted by law, Contractor shall defend and indemnify UTA from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting

from such Hazardous Materials; and (ii) Contractor shall not be entitled to and extension of Contract Price and/or Contract Time(s).

4.2 Differing Site Conditions.

- 4.2.1 If Contractor encounters a Differing Site Condition, Contractor will be entitled to an adjustment to the Contract Price and/or Contract Time(s) to the extent Contractor's cost and/or time of performance have been adversely impacted by the Differing Site Condition. "Differing Site Condition" means concealed or latent physical conditions at the Site that: (i) materially differ from the conditions indicated in the Contract Documents; and (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work.
- 4.2.2 Upon encountering a Differing Site Condition, Contractor shall provide prompt written notice to UTA of such condition, which notice shall not be later than five (5) Days after such condition has been encountered. Contractor shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

ARTICLE 5

Payment

5.1 Schedule of Values (Applicable where payment is made on the basis of progress, milestones, or on a periodic basis.)

- 5.1.1 Unless required by UTA upon execution of this Agreement, within ten (10) Days of execution of the Agreement, Contractor shall submit for UTA's review and approval a Schedule of Values for all of the Work. The Schedule of Values will: (i) subdivide the Work into its respective parts; (ii) include values for all items comprising the Work; and (iii) serve as the basis for monthly progress payments made to Contractor throughout the Work.
- 5.1.2 UTA will timely review and approve the Schedule of Values so as not to delay the submission of the Contractor's first application for payment. UTA and Contractor shall timely resolve any differences so as not to delay the Contractor's submission of its first application for payment.

5.2 Application for Payment.

- 5.2.1 To receive payment, Contractor shall submit to UTA an Application for Payment requesting payment to which contractor is entitled depending on the type of payment specified in Article 5 and Exhibit B. Contractor shall not submit Applications for Payment more often than once per month. The Application for Payment must be accompanied by supporting documentation sufficient to establish, to UTA's reasonable satisfaction, Contractor's entitlement to receive payment.
- 5.2.2 The Application for Payment may request payment for equipment and materials not yet incorporated into the Project, provided that: (i) UTA is satisfied that the equipment and materials are suitably stored at either the Site or another acceptable location; (ii) the equipment and materials are protected by suitable insurance; and (iii) upon payment, UTA will receive the equipment and materials free and clear of all liens and encumbrances.
- 5.2.3 The Application for Payment will constitute Contractor's representation that the Work described therein has been performed consistent with the Contract Documents, has progressed to the point indicated in the Application for Payment, and that title to all materials and equipment will pass to UTA free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the materials and equipment into the Project, or upon Contractor's receipt of payment, whichever occurs earlier.

5.3 Invoicing Procedures

- 5.31. Contractor shall invoice UTA after achievement of contractual milestones or after delivery of all Goods and satisfactory performance of all Services. Contractor shall submit invoices to project manager Andrea Pullos at apullos@rideuta.comuta.com for processing and payment. In order to timely process invoices, Contractor shall include the following information on each invoice:
 - i. Contractor Name
 - ii. Unique Invoice Number
 - iii. PO Number
 - iv. Invoice Date
 - v. Detailed Description of Charges
 - vi. Total Dollar Amount Due
- 5.3.2 UTA shall have the right to disapprove (and withhold from payment) specific line items of each invoice to address non-conforming Goods or Services. Approval by UTA shall not be unreasonably withheld. UTA shall also have the right to offset (against payments) amounts reasonably reflecting the value of any claim which UTA has against Contractor

under the Contract. Payment for all invoice amounts not specifically disapproved or offset by UTA shall be provided to Contractor within thirty (30) calendar days of invoice submittal.

5.4 Sales Tax Exemption

5.4.1 Purchases of certain materials are exempt from Utah sales tax. UTA will provide a sales tax exemption certificate to Contractor upon request. UTA will not pay Contractor for sales taxes for exempt purchases, and such taxes should not be included in Contractor's Application for Payment.

5.5 UTA's Payment Obligations.

5.5.1 UTA shall pay Contractor all amounts properly requested and documented within thirty (30) Days of receipt of an Application for Payment.

5.5.2 Notwithstanding Section 5.5.1, UTA may withhold up to 5% of each payment as retention in accordance with Utah Code Ann. § 13-8-5.

5.5.3 Notwithstanding Section 5.5.1, UTA may offset from such Application for Payment amounts any owed to UTA by Contractor pursuant to the Contract Documents.

5.5.4 If UTA determines that Contractor is not entitled to all or part of an Application for Payment as a result of Contractor's failure to meet its obligations under the Contract Documents, UTA will notify Contractor of the specific amounts UTA has withheld (or intends to withhold), the reasons and contractual basis for the withholding, and the specific actions Contractor must take to qualify for payment under the Contract Documents. If the Contractor disputes UTA's bases for withholding, Contractor may pursue its rights under the Contract Documents, including those under Article 8.

5.6 Contractor's Payment Obligations.

5.6.1 Contractor shall pay Subcontractors, in accordance with its contractual obligations to such parties, all the amounts Contractor has received from UTA on account of their work. Contractor shall indemnify and defend UTA against any claims for payment and mechanic's liens as set forth in Section 6.2 hereof. Contractor may withhold up to 5% of each payment as retention corresponding to retentions withheld by UTA but must pay the subcontractor all retained monies within 10 days of receipt from UTA by the Contractor. All retentions must be in compliance with Utah Code Ann. § 13-8-5.

5.6.2 Contractor shall pay its employees and also ensure its sub-tier contractors at every level pay their eligible employees the prevailing wage rate as established by the Utah State Labor Commission.

5.6.3 If the Contract Documents include Federal Clauses, the terms of those Federal Clauses pertaining to payment of Subcontractors supersede any conflicting terms of this Article 5.

5.7 Substantial Completion.

5.7.1 Contractor shall notify UTA when it believes the entire Work is Substantially Complete. As used in the Contract Documents, “Substantially Complete” or “Substantial Completion” refers to the Contractor’s satisfactory completion of all Work in accordance with the Contract Documents (excluding Punchlist items) to point such that UTA may safely start-up, occupy or otherwise fully use the Project for its intended purposes in compliance with applicable Legal Requirements. The terms “Substantially Complete” or “Substantial Completion” also require the completion of any items of Work specifically set forth as conditions precedent to Substantial Completion in the Agreement. Within five (5) Days of UTA’s receipt of Contractor’s notice, UTA and Contractor will jointly inspect such Work to verify that it is Substantially Complete in accordance with the requirements of the Contract Documents. If such Work is Substantially Complete, UTA shall prepare and issue a Certificate of Substantial Completion that will set forth: (i) the date of Substantial Completion of the Work or portion thereof; (ii) the remaining Punchlist items that have to be completed before Final Completion and final payment; and (iii) provisions (to the extent not already provided in the Contract Documents) establishing UTA’s and Contractor’s responsibility for the Project’s security, maintenance, utilities and insurance pending Final Completion and final payment.

5.7.2 Promptly after issuing the Certificate of Substantial Completion, UTA shall release to Contractor all retained amounts, less an amount equal to two times the reasonable value of all remaining Punchlist items noted in the Certificate of Substantial Completion.

5.7.3 Upon Contractor’s request or upon UTA’s own initiative, UTA may, in its sole discretion, deem a discrete segment of the Project to be Substantially Complete. The provisions of Sections 5.6.1 and 5.6.2 will apply to that discrete segment of the Project. In addition, before UTA may take possession of a discrete segment of the Project, UTA and Contractor shall obtain the consent of their sureties, insurers, and any government authorities having jurisdiction over the Project.

5.7.4 Following Substantial Completion, UTA may restrict Contractor's access to the Site. UTA shall allow Contractor reasonable access to the Site in order for the Contractor to achieve Final Completion.

5.8 Final Payment.

5.8.1 When Contractor has achieved Final Completion of the Work, Contractor shall submit a Final Application for Payment. As used in the Contract Documents, "Final Completion" refers to the Contractor's satisfactory completion of all Work in accordance with the Contract Documents including completion of Punchlist items, demobilization from the Site and the transmittal of all deliverables required by the Contract Documents. The Final Application for Payment shall include (at a minimum) the items set forth below.

5.8.1.1 An affidavit that there are no claims, obligations or liens outstanding or unsatisfied for labor, services, materials, equipment, taxes or other items performed, furnished or incurred for or in connection with the Work which will in any way affect UTA's interests;

5.8.1.2 A general release executed by Contractor waiving, upon receipt of final payment, all claims, except those claims previously made in writing to UTA and remaining unsettled at the time of final payment;

5.8.1.3 All as-built drawings, redlined drawings, operating manuals, warranty assignments and other deliverables required by the Contract Documents; and

5.8.1.4 Certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents.

5.8.2 Deficiencies in the Work discovered after Substantial Completion, whether or not such deficiencies would have been included on the Punchlist if discovered earlier, will be deemed warranty Work. Contractor shall correct such deficiencies pursuant to Section 2.6, and UTA may withhold from the final payment the reasonable value of completion of the deficient work until that work is completed.

ARTICLE 6

Indemnification and Loss

6.1 Patent and Copyright Infringement. If the Work includes any design services, provisions 6.1.1 through 6.1.3 apply.

6.1.1 Contractor shall defend any action or proceeding brought against UTA based on any claim that the Work, or any part thereof, or the operation or use of the Work

or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. UTA shall give prompt written notice to Contractor of any such action or proceeding and will reasonably provide authority, information and assistance in the defense of same. Contractor shall indemnify UTA from and against all damages and costs, including but not limited to attorneys' fees and expenses awarded against UTA or Contractor in any such action or proceeding. Contractor shall keep UTA informed of all developments in the defense of such actions.

6.1.2 If UTA is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Contractor shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Contractor cannot so procure such right within a reasonable time, Contractor shall promptly, at Contractor's expense, either: (i) modify the Work so as to avoid infringement of any such patent or copyright; or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.

6.1.3 Sections 6.1.1 and 6.1.2 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright: (i) relating solely to a particular process or product of a particular manufacturer specified by UTA and not offered or recommended by Contractor to UTA; or (ii) arising from modifications to the Work by UTA or its agents after acceptance of the Work

6.2 Payment Claim Indemnification. Provided that UTA is not in breach of its contractual obligation to make payments to Contractor for the Work, Contractor shall indemnify, defend and hold harmless UTA from any claims or mechanic's liens brought against UTA or against the Project as a result of the failure of Contractor, its Subcontractors, or others for whose acts Contractor is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work. Within three (3) Days of receiving written notice from UTA that such a claim or mechanic's lien has been filed, Contractor shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Contractor fails to do so, UTA will have the right to discharge the claim or lien and hold Contractor liable for costs and expenses incurred, including attorneys' fees.

6.3 Contractor's General Indemnification.

6.3.1 Contractor, to the fullest extent permitted by law, shall indemnify, hold harmless and defend UTA, its officers, trustees, and employees from and against claims, losses, damages, liabilities, including attorneys' fees and

expenses, for bodily injury, sickness or death, and property damage or destruction resulting from or arising out of the negligent acts or omissions of Contractor, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable.

6.3.2 If an employee of Contractor, a Subcontractor, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable has a claim against UTA, its officers, directors, employees, or agents, Contractor's indemnity obligation set forth in Section 5.3.1 above will not be limited by any limitation on the amount of damages, compensation or benefits payable by or for Contractor, Subcontractors, or other entity under any employee benefit acts, including workers' compensation or disability acts.

6.4 Risk of Loss. Contractor bears all risk of loss to the Project, including materials and equipment not yet incorporated into the Project, until final payment is made by UTA. The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. UTA in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, his agents, representatives, employees, or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.

ARTICLE 7

INSURANCE REQUIREMENTS

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The Utah Transit Authority in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this contract by the Contractor, his agents, representatives, employees or subcontractors and Contractor is free to purchase additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE:** Contractor shall provide coverage with limits of liability not less than those Stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

1. Commercial General Liability – Occurrence Form

Policy shall include bodily injury, property damage and broad form contractual liability coverage.

- General Aggregate \$4,000,000

- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Each Occurrence \$2,000,000
 - a. The policy shall be endorsed to include the following additional insured language:
"The Utah Transit Authority shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor".
 - b. The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE: "Contractual Liability Railroads" ISO from CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing "Utah Transit Authority Property" as the Designated Job Site

2. **Automobile Liability**

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$2,000,000

- a. The policy shall be endorsed to include the following additional insured language: "The Utah Transit Authority shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor".

3. **Worker's Compensation and Employers' Liability**

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

- a. Policy shall contain a waiver of subrogation against the Utah Transit Authority.
- b. This requirement shall not apply when a contractor or subcontractor is exempt under UCA, AND when such contractor or subcontractor executes the appropriate waiver form.

4. **Professional Liability (Errors and Omissions Liability)**

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract.

Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning at the time work under this Contract is completed.
 6. **Contractors' Pollution Legal Liability and/or Asbestos Legal Liability** (if project involves environmental hazards) with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate. *(NOTE: Projects over \$10,000,000 will require limits of \$2,000,000 per occurrence and \$4,000,000 aggregate; Projects over \$40,000,000 will require limits of \$5,000,000 per occurrence and \$5,000,000 aggregate)*
 7. **Builder's Risk:** Builder's risk (course of construction) insurance, covering the risk of loss for any damage or loss to the building or structure by any means or occurrence until the final completion of the contract work. Coverage shall utilize an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions. The coverage shall include mechanical breakdown, property in transit, property at temporary storage locations, earthquake damage and flood damage insuring the interests of UTA, SLCD and their respective subcontractors of any tier providing equipment, materials or services for the project.
- B. **ADDITIONAL INSURANCE REQUIREMENTS:** The policies shall include, or be endorsed to include the following provisions:
1. On insurance policies where the Utah Transit Authority is named as an additional insured, the Utah Transit Authority shall be an additional insured to the full limits of liability purchased by the Contractor. Insurance limits indicated in this agreement are minimum limits. Larger limits may be indicated after the contractor's assessment of the exposure for this contract; for their own protection and the protection of UTA.
 2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
 3. Contractor and their insurers shall endorse the required insurance policy(ies) to waive their right of subrogation against UTA. Contractor's insurance shall be primary with respect to any insurance carried by UTA. Contractor will furnish UTA at least thirty (30) days advance written notice of any cancellation or non-renewal of any required coverage that is not replaced.
- C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided, or canceled

except after thirty (30) days prior written notice has been given to the Utah Transit Authority, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to (Utah Transit Authority agency Representative's Name & Address).

- D. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers duly licensed or authorized to do business in the State and with an "A.M. Best" rating of not less than A-VII. The Utah Transit Authority in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- E. VERIFICATION OF COVERAGE: Contractor shall furnish the Utah Transit Authority with certificates of insurance (on standard ACORD form) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be sent to utahta@ebix.com and received and approved by the Utah Transit Authority before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be emailed directly to Utah Transit Authority's insurance email address at utahta@ebix.com. The Utah Transit Authority project/contract number and project description shall be noted on the certificate of insurance. The Utah Transit Authority reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. DO NOT SEND CERTIFICATES OF INSURANCE TO THE UTAH TRANSIT AUTHORITY'S CLAIMS AND INSURANCE DEPARTMENT.

- F. SUBCONTRACTORS: Contractors' certificate(s) shall include all subcontractors as additional insureds under its policies or subcontractors shall maintain separate insurance as determined by the Contractor, however, subcontractor's limits of liability shall not be less than \$1,000,000 per occurrence / \$2,000,000 aggregate. Sub-contractors maintaining separate insurance shall name Utah Transit Authority as an additional insured on their policy. Blanket additional insured endorsements are not acceptable from sub-contractors. Utah Transit Authority must be scheduled as an additional insured on any sub-contractor policies.
- G. APPROVAL: Any modification or variation from the insurance requirements in this Contract shall be made by Claims and Insurance Department or the Office of General Counsel, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

Article 8.0

Health Insurance

Insurance Coverage for Employees.

- 8.1 If the Contract Price is \$2,000,000 or more, Contractor shall, prior to the effective date of the Agreement, demonstrate to UTA that Contractor has and will maintain an offer of qualified health insurance coverage (as defined by Utah Code Ann. § 17B-2a-818.5) for the Contractor's employees and the employee's dependents during the duration of the Contract.
- 8.2 If the Contractor enters into any subcontracts under the Contract Documents in an amount of \$1,000,000 or more, then Contractor shall also demonstrate to UTA that such subcontractor(s) have and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employee's dependents during the duration of the subcontract

Article 9.0

TIMELINESS

- 9.1 **Obligation to Achieve the Contract Times.** Contractor shall commence performance of the Work and achieve the Contract Time(s) in accordance with the Contract Documents. The Contract Documents specify critical completion milestones with which Contractor must comply. All time and schedule requirements included within the Contract Documents are of the essence. By executing the Agreement, Contractor confirms that the completion milestones in the Contract Documents are reasonable for the performance of the Work. Unless otherwise excused by the terms of the Contract Documents, Contractor's failure to timely perform the Work in accordance with the completion milestones shall result in the assessment of liquidated damages (if, and to the extent, set forth in the Agreement) and (where no liquidated damages are provided under the Agreement or where the maximum liquidated damages available under the Agreement have been incurred) an event of default.
- 9.2 **Excusable Delays.** The Contract Time(s) for performance shall be equitably adjusted by Change Order to the extent that Contractor is actually and demonstrably delayed in the performance of the Work because of: (i) Differing Site Conditions (as provided in Section 3.2); (ii) Hazardous Materials (as provided in Section 3.1); (iii) Force Majeure Events (as defined in Section 1.3); (iv) changes in the Work directed by UTA (as provided in Section 7.2); (v) constructive changes (as provided in Section 7.3); (vi) changes in Legal Requirements (as provided in Section 2.3.3); (viii) a suspension without cause (as provided in Section 9.1); or (viii) UTA's unexcused delay in performing any UTA obligation specified in the Contract Documents in accordance with the completion milestones indicated in the approved schedule.

9.3 Excusable and Compensable Delays. In addition to Contractor's right to a time extension for those events set forth in Section 6.2 above, Contractor will also be entitled to an appropriate adjustment of the Contract Price provided, however, that the Contract Price will not be adjusted for delays caused by Force Majeure Events.

ARTICLE 10

Changes

10.1 Change Orders.

10.1.1 Contractor shall not undertake any activity that materially changes the Work, or materially deviates from the requirements of the Contract Documents, except as authorized in this Article 7. Any costs incurred by Contractor without authorization as provided in this Article 7 will be considered non-compensable.

10.1.2 A Change Order is a written instrument, signed by UTA and Contractor, issued after execution of the Agreement, stating their agreement on a change in: (i) the scope of the Work; (ii) the Contract Price; and/or (iii) the Contract Time(s).

10.1.3 All changes in the Work authorized by applicable Change Order shall be performed under the applicable conditions of the Contract Documents. UTA and Contractor shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for such changes.

10.2 UTA-Directed Changes. UTA may direct changes in the Work. Upon receipt of such direction, Contractor shall prepare an estimate of the cost and schedule impact of the change (if any). Upon agreement between UTA and Contractor on the scope of the change to the Work, and the adjustment, if any, to the Contract Price and/or Contract Times, UTA and Contractor shall execute a written Change Order.

10.3 Constructive Changes.

10.3.1 To the extent that Contractor: (i) receives a written or verbal direction or proceeding from UTA that Contractor believes to constitute a material change to the nature, character or schedule of the Work; and/or (ii) becomes aware of any circumstance or condition that expressly provides Contractor a right to a Change Order under the terms of the Contract Documents, then (in either case) Contractor shall deliver to UTA's Project Manager written notice (hereinafter a "Potential Change Notice") within ten (10) Days after Contractor becomes aware of (or should have reasonably become aware) the facts and circumstances which Contractor believes to give rise to a Change Order.

10.3.2 Contractor's failure to deliver a Potential Change Notice in a timely manner shall constitute a waiver of all of Contractor's rights to a Change Order.

10.3.3 In conjunction with the Potential Change Notice or not longer than 30 days after delivery of notice, Contractor shall submit to UTA all supporting information and documentation necessary for UTA to evaluate the contractual basis for the Potential Change Notice and to also evaluate the relief claimed by Contractor. Contractor shall promptly respond to all UTA inquiries about the Potential Change Notice and the supporting information and documentation.

10.3.4 To the extent UTA concludes that the Potential Change Notice demonstrates Contractor's entitlement to a Contract adjustment, and provided that the parties are able to negotiate mutually agreeable adjustments to the Contract Documents, then UTA and Contractor shall execute a written Change Order.

10.4 Direction or Authorization to Proceed.

10.4.1 Prior to final agreement with respect to a Change Order, UTA may issue a Direction or Authorization to Proceed ("DAP"). A DAP is a written order unilaterally prepared and signed by UTA directing the Contractor to proceed with specified Work while Change Order negotiations or Claim resolution discussions continue. UTA may issue a DAP at any time, and Contractor shall undertake the Work as set forth in the DAP, and in accordance with the Contract Documents.

10.4.2 After issuance of a DAP, UTA and Contractor shall continue to negotiate in good faith to resolve outstanding issues expeditiously.

10.5 **Requests for Information.** UTA shall have the right, from time to time, to issue clarifications to the Work of a non-material nature at any time. Contractor shall have the corresponding right to seek clarification with respect to ambiguous or conflicting provisions of the Contract Documents. Such clarifications or conflicts shall be confirmed, implemented and documented through a Request for Information ("RFI") process to be developed for the Project. The RFI process may also be used to document minor changes in the Work do not involve an adjustment in the Contract Price and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents.

10.6 Contract Price Adjustments.

10.6.1 The increase or decrease in Contract Price resulting from a change in the Work will be determined by one or more of the following methods:

10.6.1.1 Unit prices set forth in the Agreement or as subsequently agreed to between the parties;

10.6.1.2 A mutually accepted lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by UTA;

10.6.1.3 Costs, fees and any other markup rates set forth in the Agreement; or

10.6.1.4 If an increase or decrease cannot be agreed to as set forth in items 10.6.1.1 through 10.6.1.3 above and UTA issues a DAP, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit rate, as may be set forth in the Agreement.

10.6.2 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to UTA or Contractor because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

10.6.3 Negotiations over changes in the Contract Price will be conducted using an open-book cost-estimating process. UTA defines "open-book" to include all elements of Contractor's costs, including labor hours and rates, units and estimated quantities, unit prices, equipment estimates, material costs, and subcontractor costs. Contractor shall openly share its detailed cost estimate, material and subcontractor quotations and any other information used to compile its cost estimate.

10.7 Disputes Regarding Change Orders. If the parties are not able to agree as to whether a Change Order is warranted under the Contract Documents, or cannot agree upon the extent of relief to be granted under a Change Order after good faith negotiations, either party may refer the dispute to the Claim resolution provisions of Article 8. Pending resolution of such Claim, Contractor shall proceed with the Work as directed by UTA under a reservation of rights. UTA shall continue to pay any undisputed payments related to such Claim.

10.8 Emergencies. In any emergency affecting the safety of persons and/or property, Contractor shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time(s) on account of emergency work shall be determined as provided in this Article 7.

ARTICLE 11

Claims and Dispute Resolution

11.1 Claims.

- 11.1.1 “Claim” means any disputes between UTA and the Contractor arising out of or relating to the Contract Documents including any disputed claims for Contract adjustments that cannot be resolved in accordance with the Change Order negotiation process set forth in Article 8. Claims must be made by written notice. The responsibility to substantiate claims rests with the party making the claim.
- 11.1.2 Unless otherwise directed by UTA in writing, Contractor shall proceed diligently with performance of the Work pending final resolution of a Claim, including litigation. UTA shall continue to pay any undisputed payments related to such Claim.

11.2 **Dispute Resolution.**

- 11.2.1 The parties shall attempt in good faith to resolve promptly through negotiation any Claim arising out of or relating to the Contract Documents. If a Claim should arise, UTA’s Project Manager and Contractor’s Project Manager will meet at least once to attempt to resolve the Claim. For such purpose, either may request the other to meet within seven (7) Days of the date the Claim is made, at a mutually agreed upon time and place.
- 11.2.2 If UTA’s Project Manager and Contractor’s Project Manager are not able to resolve the Claim within fourteen (14) Days after their first meeting (or such longer period of time as may be mutually agreed upon), either party may request that UTA’s Senior Representative and the Contractor’s management representative (“Contractor’s Management Representative”) meet at least once to attempt to resolve the Claim.
- 11.2.3 If the Claim has not been resolved within sixty (60) Days of the date the Claim is made, either party may refer the Claim to non-binding mediation by sending a written mediation request to the other party. In the event that such a request is made, the Parties agree to participate in the mediation process. Non-binding mediation of claims or controversies under the Contract Documents shall be conducted by a professional mediator that is mutually acceptable to and agreed upon by both parties (the “Mediator”). The parties and the Mediator may join in the mediation any other party necessary for a mutually acceptable resolution of the Claim. The mediation procedure shall be determined by the Mediator in consultation with the parties. The fees and expenses of the Mediator shall be borne equally by the parties.
- 11.2.4 If the Claim is not resolved within thirty (60) days after the commencement of mediation, or if no mediation has been commenced within one hundred

and twenty (120) days of the date the Claim is made, either party may commence litigation to resolve the Claim. The exclusive forum for any such litigation is the Third District Court in and for Salt Lake County, Utah.

ARTICLE 12

Suspension and Termination

12.1 UTA's Right to Stop Work.

12.1.1 UTA may, without cause and for its convenience, order Contractor in writing to stop and suspend the Work. Such suspension shall not exceed one hundred and twenty (120) consecutive Days or aggregate more than two hundred and forty (240) Days during the duration of the Project. In the event a suspension continues longer than the above-referenced periods, Contractor shall have the right to terminate the Agreement. Any such termination shall be considered to be a termination for convenience by UTA.

12.1.2 If a suspension is directed by UTA without cause, Contractor shall be entitled to seek an adjustment of the Contract Price and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted by any suspension or stoppage of the Work by UTA.

12.1.3 In addition to its rights under Section 12.1.1, UTA shall have the right to order a suspension for cause if the Work at any time ceases to comply with the workmanship, safety, quality or other requirements of the Contract Documents or any Legal Requirements. Contractor shall not be entitled to seek an adjustment the Contract Price and/or Contract Time(s) with regard to any such suspension.

12.2 UTA's Right to Terminate for Convenience. Upon written notice to Contractor, UTA may, for its convenience and without cause, elect to terminate this Agreement. In such event, UTA shall pay Contractor for the following:

12.2.1 All Work satisfactorily completed or commenced and in process as of the effective date of termination;

12.2.2 The reasonable and demonstrable costs and expenses attributable to such termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors; and

12.2.3 The fair and reasonable sums for overhead and profit on the sum of items 12.2.1 and 12.2.2 above. UTA shall not be liable for anticipated profits, costs or overhead based upon Work not yet performed as of the date of termination.

12.3 UTA's Right to Terminate for Cause; Other Remedies for Default.

- 12.3.1 Subject to the cure provision of Section 9.3.2 below and other limitations set forth in these General Conditions, Contractor shall be in default of its obligations under the Contract Documents if Contractor: (i) fails to provide a sufficient number of skilled workers; (ii) fails to supply the materials required by the Contract Documents; (iii) fails to comply with applicable Legal Requirements; (iv) fails to timely pay its Subcontractors without proper cause; (v) makes a materially false or misleading representation or certification in conjunction with the Contract Documents; (vi) fails to prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted; (vii) fails to satisfy any guaranteed interim or completion milestone set forth in the Contract Documents; or (viii) fails to perform any other material obligations under the Contract Documents. In any such event, UTA (in addition to any other rights and remedies provided in the Contract Documents or by law) shall have the rights set forth in Sections 9.3.2 through 9.3.5 below.
- 12.3.2 Upon the occurrence of an event of default set forth in Section 9.3.1 above, UTA may provide written notice to Contractor that it intends to terminate the Agreement (in whole or in part) or pursue other available remedies unless the grounds for default are cured within ten (10) Days of Contractor's receipt of such notice. If Contractor fails to cure the grounds for default within such period, then UTA may declare the Agreement, or portions of the Agreement, terminated for default by providing written notice to Contractor of such declaration; provided, however, that to the extent that an item included is the notice of default and demand for cure is capable of cure, but not within the ten-Day cure period, then the Agreement shall not be terminated so long as Contractor commences actions to reasonably cure such breach within the 10-Day cure period and thereafter continuously and diligently proceeds with such curative actions until completion (such additional period not to exceed 45 Days). UTA may terminate the Agreement without opportunity to cure if the breach involves the Contractor's material failure to comply with any Legal Requirements pertaining to safety or environmental compliance.
- 12.3.3 Upon the continuance of a breach described in Section 9.3.1 for more than ten (10) Days following delivery of written notice to Contractor (and regardless of whether the Agreement, or any portion hereof, has been terminated as provided above), UTA shall be entitled to self-perform (through its own forces or through other contractors) the corrective action

necessary to cure Contractor's event of default and deduct all costs so incurred from any amount then or thereafter due to Contractor.

- 12.3.4 Upon the continuance of a breach described in Section 9.3.1 for more than ten (10) Days following delivery of written notice to Contractor (and regardless of whether the Agreement, or any portion hereof, has been terminated as provided above), UTA shall be entitled to seek performance by any guarantor of Contractor's obligations hereunder or draw upon any surety or security provided for in the Contract Documents.
- 12.3.5 Upon declaring the Agreement terminated pursuant to Section 9.3.2 above, UTA may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Contractor hereby transfers, assigns and sets over to UTA for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items. In the event of such termination, Contractor shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, if the unpaid balance of the Contract Price exceeds the cost and expense incurred by UTA in completing the Work, such excess shall be paid by UTA to Contractor. If UTA's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Contractor shall pay the difference to UTA. Such costs and expenses include not only the cost of completing the Work, but also losses, damages, costs and expenses, including attorneys' fees and expenses, incurred by UTA in connection with the reprourement and defense of claims arising from Contractor's default.
- 12.3.6 All rights and remedies set forth in the Contract Documents are cumulative, and unless otherwise specifically provided in the Contract Documents are not exclusive of any other rights or remedies that may be available, whether provided by law, equity, statute, in any other agreement between the Parties or otherwise. Upon the occurrence of any such default, following the applicable process described in this Article, UTA shall be entitled to pursue any and all other rights and remedies, including without limitation damages, that UTA may have against Contractor under the Contract Documents or at law or in equity.

- 12.3.7 If UTA improperly terminates the Agreement for cause, the termination for cause will be converted to a termination for convenience in accordance with the provisions of Section 9.2 above.

12.4 Bankruptcy of Contractor.

- 12.4.1 If Contractor institutes or has instituted against it a case under the United States Bankruptcy Code, such event may impair or frustrate the Contractor's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:

12.4.1.1 Contractor, its trustee or other successor, shall furnish, upon request of UTA, adequate assurance of the ability of the Contractor to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) Days after receiving notice of the request; and

12.4.1.2 Contractor shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Agreement within sixty (60) Days of the institution of the bankruptcy filing and shall diligently prosecute such action. If Contractor fails to comply with its foregoing obligations, UTA shall be entitled to request the bankruptcy court to reject the Agreement, declare the Agreement terminated and pursue any other recourse available to the UTA under this Article 9.

- 12.4.2 The rights and remedies under Section 9.4.1 above shall not be deemed to limit the ability of UTA to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code.

ARTICLE 13

Value Engineering

13.1 Value Engineering Change Proposals.

- 13.1.1 A Value Engineering Change Proposal ("VECP") is a proposal developed, prepared, and submitted to UTA by the Contractor, which reduces the cost of the Work without impairing essential functions or characteristics of the Project, as determined by UTA in its sole discretion. UTA encourages Contractor to submit VECPs whenever it identifies potential savings or improvements. UTA may also request the Contractor to develop and submit a specific VECP.

13.1.2 In determining whether a VECP will impair essential functions or characteristics of the Project, UTA may consider: (i) relative service life; (ii) maintenance effort and frequency; (iii) environmental and aesthetic impacts; (iv) system service; (v) effect of other system components; and (vi) other issues as UTA deems relevant. A VECP must not be based solely on a change in quantities.

13.1.3 Contractor must include the following information in any VECP:

13.1.3.1 A narrative description of the proposed change,

13.1.3.2 A discussion of differences between existing requirements and the proposed change, together with advantages and disadvantages of each changed item;

13.1.3.3 A complete cost analysis, including the cost estimate of any additional rights-of-way or easements required for implementation of the VECP;

13.1.3.4 Justification for changes in function or characteristics of each item and effect of the change on the performance on the end item;

13.1.3.5 A description of any previous use or testing of the proposed approach and the conditions and results. If the VECP was previously submitted on another UTA project, the Contractor shall indicate the date, contract number, and the action taken by UTA;

13.1.3.6 Costs of development and implementation; and

13.1.3.7 Any additional information requested by UTA, which must be provided in a timely manner.

13.2 Review and Approval of VECPs

13.2.1 Upon receipt of a VECP, UTA shall process it expeditiously, but will not be liable for any delay in acting upon any VECP. Contractor may withdraw all or part of any VECP at any time prior to approval by UTA, but shall, in any case, be liable for costs incurred by UTA in reviewing the withdrawn VECP, or part thereof. In all other situations, each party will bear its own costs in connection with preparation and review of VECPs.

13.2.2 UTA may approve in whole or in part any VECP submitted. The decision of UTA regarding rejection or approval of any VECP will be at the sole discretion of UTA and will be final and not subject to appeal. Contractor will have no claim for any additional costs or delays resulting from the rejection of a

VECP, including development costs, loss of anticipated profits, or increased material or labor costs

- 13.3 **Cost Savings.** Except as otherwise stated in the Agreement, any savings resulting from an approved VECP will accrue to the benefit of UTA and Contractor on a 50/50 cost sharing basis. Nevertheless, a Contractor shall not be eligible to share in cost savings where the Contractor had responsibility under its scope of work for drafting, reviewing or approving the designs or processes involved in the VECP.
- 13.4 **Ownership of VECPS.** All approved or disapproved VECPS will become the property of UTA and must contain no restrictions imposed by Contractor on their use or disclosure. UTA retains the right to use, duplicate, and disclose, in whole or in part, any data necessary for the utilization of the VECP on any other projects without any obligation to Contractor. This provision is not intended to deny rights provided by law with respect to patented materials or processes.

ARTICLE 14

Miscellaneous

- 14.1 **Confidential Information.** “Confidential Information” means information that is determined by the transmitting party to be of a confidential or proprietary nature and: (i) the transmitting party identifies in writing as either confidential or proprietary; (ii) the transmitting party takes steps to maintain the confidential or proprietary nature of the information; and (iii) the document is not otherwise available in or considered to be in the public domain. To the extent permitted by law (including specifically UCA Title 63G Chapter 2), the receiving party shall maintain the confidentiality of the Confidential Information and shall use the Confidential Information solely in connection with the Project. The parties agree that the Agreement itself (including all incorporated Contract Documents) does not constitute Confidential Information.
- 14.2 **PUBLIC INFORMATION:** Vendor acknowledges that the Contract and related materials (invoices, orders, etc.) will be public documents under the Utah Government Records Access and Management Act (GRAMA). Vendor’s response to the solicitation for the Contract will also be a public document subject to GRAMA, except for legitimate trade secrets, so long as such trade secrets were properly designated in accordance with terms of the solicitation.
- 14.3 **Prohibited Interest.** No member, officer, agent, or employee of UTA during his or her tenure or for one year thereafter shall have any interest, direct or indirect, including prospective employment by, Contractor or the proceeds under the Contract Documents without specific written authorization by UTA.

- 14.4 **Assignment.** Contractor acknowledges that the Work to be performed by Contractor is considered personal by UTA. Contractor shall not assign or transfer its interest in the Contract Documents without prior written approval by UTA.
- 14.5 **Successors.** Contractor and UTA intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and permitted assigns.
- 14.6 **Governing Law.** The Agreement and all Contract Documents are governed by the laws of the State of Utah, without giving effect to its conflict of law principles. Actions to enforce the terms of this Agreement may only be brought in the Third District Court for Salt Lake County, Utah.
- 14.7 **Attorneys Fees and Costs.** If any party to this Agreement brings an action to enforce or defend its rights or obligations hereunder, the prevailing party shall be entitled to recover its costs and expenses, including mediation, arbitration, litigation, court costs and attorneys' fees, if any, incurred in connection with such suit, including on appeal.
- 14.8 **Severability.** If any provision or any part of a provision of the Contract Documents is finally determined to be superseded, invalid, illegal, or otherwise unenforceable pursuant to any applicable Legal Requirements, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which shall remain in full force and effect as if the unenforceable provision or part were deleted.
- 14.9 **No Waiver.** The failure of either Contractor or UTA to insist, in any one or more instances, on the performance of any of the obligations required by the other under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.
- 14.10 **Headings.** The headings used in these General Conditions, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.
- 14.11 **Amendments.** The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.
- 14.12 **FORCE MAJEURE:** Neither party to the Contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which are beyond that party's reasonable control. UTA may terminate the Contract after determining such delay or default will reasonably prevent successful performance of the Contract.
- 14.13 **ENTIRE AGREEMENT:** The Contract constitutes the entire agreement between the parties with respect to the subject matter, and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written. The terms of the Contract supersede any additional or conflicting terms or provisions that may be preprinted on Vendor's work plans, cost estimate forms, receiving

tickets, invoices, or any other related standard forms or documents of Vendor that may subsequently be used to implement, record, or invoice Goods and/or Services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of UTA. The terms of the Contract prevail in any dispute between the terms of the Contract and the terms printed on any such standard forms or documents, and such standard forms or documents will not be considered written amendments of the Contract.

EXHIBIT A – SCOPE OF WORK

Construction of an additional UVX station (2 platforms) along 900 East at 1100 North (Campus Lane) in Provo, Utah. Work consists of items to construct a new Bus Rapid Transit station based on the attached plans and specifications. Construction work includes, removals of existing facilities, roadway pavement widening, concrete flatwork, station canopies and utilities (electrical, water, snowmelt, and communication), storm drainage, traffic control, concrete walls and landscaping. Contractor will be required to use PROCORE for Submittals, RFI's, and all other correspondence. Project Team meetings will be held weekly. Coordination with BYU, Provo City, and UTA Bus Operations will be required.

EXHIBIT B – PRICING**Not to Exceed \$2,346,888.02**

Item #	SCC #	SPEC #	DESCRIPTION	UOM	Cost		
					QTY	UP	TOTAL
GUIDEWAY & TRACK ELEMENTS							
Guideway: At-grade semi-exclusive							
10	10.02	31 05 13M	Granular Borrow (Plan Quantity)	CY	117	\$ 77.16	\$ 9,027.72
20	10.02	31 23 16	Roadway Excavation	CY	628	\$ 58.00	\$ 36,424.00
30	10.02	32 11 23	Untreated Base Course (Plan Quantity)	CY	81	\$ 83.00	\$ 6,723.00
40	10.02	32 13 13	Portland Cement Concrete Pavement (10")	SY	422	\$ 160.00	\$ 67,520.00
50	10.02	32 16 13M	Concrete Curb APWA Type P	LF	40	\$ 82.00	\$ 3,280.00
60	10.02	32 16 13M	Curb and Gutter/PCCP Transition	SF	192	\$ 23.00	\$ 4,416.00
STATIONS, STOPS, TERMINALS, INTERMODAL							
At-grade station, stop, shelter, mall, terminal, platform							
70	20.01	03 3000S	Station Concrete	EA	2	\$ 33,900.00	\$ 67,800.00
80	20.01	03 3000S	Abrasive Tred (Yellow)	LF	72	\$ 23.74	\$ 1,697.41
90	20.01	03 3000S/04 2000S	Station Windscreen Support Wall	LF	88	\$ 320.00	\$ 28,160.00
100	20.01	03 3000S	Station Shelter Footing	EA	2	\$ 20,698.00	\$ 41,396.00
110	20.01	03 4100S	Precast Shelter Column	EA	2	\$ 17,980.00	\$ 35,960.00
120	20.01	03 4100S	Precast Shelter Column with Conduit	EA	2	\$ 17,240.00	\$ 34,480.00
130	20.01	03 4100S	Precast Shelter Column with Downspout	EA	2	\$ 17,240.00	\$ 34,480.00
140	20.01	05 5000S	Stainless Steel Railing	LF	114	\$ 252.00	\$ 28,728.00
150	20.01	05 5000S	Station Windscreen Mullions	LF	150	\$ 94.00	\$ 14,100.00
160	20.01	05 XXXXS and 07 XXXXS Series	Station Canopy	EA	2	\$ 42,230.00	\$ 84,460.00
170	20.01	08 8000S	Station Windscreen Glass (Clear Back)	SF	162	\$ 566.00	\$ 91,692.00
175	20.01	08 8000S	Station Windscreen Glass (Clear Side)	SF	56	\$ 537.00	\$ 30,072.00
180	20.01	08 8000S	Station Windscreen Glass (Art Side)	SF	56	\$ 601.00	\$ 33,656.00
190	20.01	10 1400S	ADA/Bike Boarding Zone Sybmol	EA	2	\$ 237.00	\$ 474.00
200	20.01	10 1400S	Station Name Sign	EA	2	\$ 4,503.00	\$ 9,006.00
210	20.01	10 1400S	Real Time Sign	EA	2	\$ 2,658.00	\$ 5,316.00
220	20.01	10 1400S	Station Information Signage (Kiosk)	EA	2	\$ 13,314.00	\$ 26,628.00

230	20.01	12 9300S	Aluminum Bench	EA	4	\$ 3,348.00	\$ 13,392.00
240	20.01	12 9300S	Waste Receptacle	EA	4	\$ 254.00	\$ 1,016.00
250	20.01	23 XXXXS series	Station Platform Snow Melt (Hydronic)	EA	2	\$ 72,197.00	\$ 144,394.00
260	20.01	26 XXXXS series	Station Electrical	EA	2	\$ 218,057.00	\$ 436,114.00
270	20.01	26 XXXXS Series	Station Canopy Snow Melt (Electric)	EA	2	\$ 6,415.00	\$ 12,830.00
280	20.01	32 1726S	Detectable Warning Surface	SF	240	\$ 42.00	\$ 10,080.00
290	20.01	32 7113.26S	Docking Guide Strip	LF	174	\$ 126.00	\$ 21,924.00
SITework & SPECIAL CONDITIONS							
Demolition, Clearing, Earthwork							
300	40.01	02 41 14	Remove Curb and Gutter	LF	697	\$ 14.00	\$ 9,761.15
310	40.01	02 41 14	Remove Concrete Sidewalk	SY	604	\$ 36.60	\$ 22,093.96
320	40.01	02 41 14	Remove Asphalt Pavement	SY	266	\$ 36.50	\$ 9,709.00
330	40.01	31 11 00	Remove Landscaping	SF	6807	\$ 1.23	\$ 8,372.96
340	40.01	31 11 00	Remove Tree	EA	13	\$ 508.00	\$ 6,604.00
Site Utilities, Utility Relocation							
350	40.02	02 41 13	Remove Pipe	LF	45	\$ 120.00	\$ 5,400.00
360	40.02	02 41 13	Remove Catch Basin	EA	3	\$ 609.00	\$ 1,827.00
370	40.02	02 41 13	Abandon Water Service	EA	1	\$ 990.00	\$ 990.00
380	40.02	02 41 13	Remove Irrigation Line	LF	140	\$ 16.50	\$ 2,310.00
390	40.02	22 1119S	Frost Free Hydrant	EA	2	\$ 1,424.00	\$ 2,848.00
400	40.02	26 05 33	2" PVC Electrical Conduit	LF	200	\$ 25.00	\$ 5,000.00
410	40.02	26 05 34	Relocate Electrical Junction Box	EA	1	\$ 3,115.00	\$ 3,115.00
420	40.02	33 05 02	15" RCP	LF	27	\$ 118.00	\$ 3,186.00
430	40.02	33 05 05	16" DIP	LF	16	\$ 118.00	\$ 1,833.84
440	40.02	33 05 06	3" HDPE Irrigation Line & Valve	LF	20	\$ 95.00	\$ 1,900.00
450	40.02	33 05 06	6" HDPE Irrigation Line	LF	190	\$ 119.00	\$ 22,610.00
460	40.02	33 05 06	12" HDPE Pipe	LF	24	\$ 99.00	\$ 2,341.35
470	40.02	33 05 07	3" Schedule 80 PVC	LF	13	\$ 113.00	\$ 1,469.00
480	40.02	33 11 00M/33 12 33	New 1" Water Service (NB Platform)	EA	1	\$ 8,665.00	\$ 8,665.00
490	40.02	33 11 00M/33 12 33	New 1" Water Service (Contingency) (SB Platform)	EA	1	\$ 11,870.00	\$ 11,870.00
500	40.02	33 11 00M/33 12 33	Extend Water Service (SB Platform)	EA	1	\$ 5,935.00	\$ 5,935.00
510	40.02	33 41 00	4' Dia. Manhole	EA	1	\$ 29,680.00	\$ 29,680.00

520	40.02	33 41 00	5' Dia. Manhole	EA	1	\$ 32,050.00	\$ 32,050.00
530	40.02	33 41 00	Catch Basin	EA	2	\$ 10,683.00	\$ 21,366.00
540	40.02	33 41 00	Double Catch Basin	EA	1	\$ 14,244.00	\$ 14,244.00
Site structures including retaining walls, sound walls							
550	40.05	03 3000S/32 3119S	900 East Wall 1	LS	1	\$ 180,680.00	\$ 180,680.00
560	40.05	03 3000S/32 3119S	900 East Wall 2	LS	1	\$ 125,983.00	\$ 125,983.00
Pedestrian / bike access and accommodations, landscaping							
570	40.06	12 9310S	Bike Rack	EA	2	\$ 491.00	\$ 982.00
580	40.06	32 16 13M	6" X 18" Concrete Curb Wall	FT	185	\$ 49.00	\$ 9,061.96
590	40.06	32 16 13M	Concrete Sidewalk	SF	5756	\$ 9.18	\$ 52,839.06
600	40.06	32 16 13M	Station Ramp	SF	416	\$ 29.50	\$ 12,273.33
610	40.06	32 16 14	Pedestrian Access Ramp	EA	2	\$ 3,600.00	\$ 7,200.00
620	40.06	32 84 23	Irrigation Sleeve	LF	680	\$ 12.00	\$ 8,160.00
630	40.06	32 9000S	1 Gallon Shrub/Annual/Perennial	EA	60	\$ 72.00	\$ 4,320.00
640	40.06	32 9000S	5 Gallon Shrub	EA	61	\$ 90.00	\$ 5,490.00
650	40.06	32 9000S	2" Caliper Tree	EA	2	\$ 296.00	\$ 592.00
660	40.06	32 9000S	Bark Mulch	CY	21	\$ 118.00	\$ 2,478.00
670	40.06	32 9000S	Weed Barrier Fabric	SF	2195	\$ 1.08	\$ 2,370.60
680	40.06	32 9200S	Turf Sod	SF	300	\$ 2.37	\$ 711.00
Automobile, bus, van accessways including roads, parking lots							
690	40.07	32 01 07	Relocate Sign	EA	7	\$ 245.00	\$ 1,715.00
700	40.07	32 01 07	Sign Type A-1 (30" X 36")	EA	1	\$ 982.00	\$ 982.00
710	40.07	32 12 05M	HMA - 1/2 Inch	TON	0.3	\$ 9,891.00	\$ 2,967.30
720	40.07	32 16 13M	Concrete Curb and Gutter APWA Type E	LF	434	\$ 55.32	\$ 24,018.67
730	40.07	32 17 23	Pavement Marking Paint	GAL	11	\$ 178.00	\$ 1,929.52
740	40.07	32 17 23	Pavement Message (Preformed Thermoplastic)	EA	14	\$ 178.00	\$ 2,492.00
750	40.07	32 17 23M	Remove Pavement Marking Paint	LF	170	\$ 3.56	\$ 605.20
Temporary Facilities and other indirect costs during construction							
760	40.08	01 1540S	Public Information Services	LS	1	\$ 4,568.00	\$ 4,568.00
770	40.08	01 55 26M	Traffic Control	LS	1	\$ 35,242.00	\$ 35,242.00
780	40.08	01 71 13	Mobilization and Demobilization	LS	1	\$ 145,057.00	\$ 145,057.00
790	40.08	01 71 23	Survey	LS	1	\$ 5,697.00	\$ 5,697.00
800	40.08		Contractor Indirects	LS	1	\$ 36,798.00	\$ 36,798.00
810	40.08		Misc Insurance/Bond/Contingencies	LS	1	\$ 27,000.00	\$ 27,000.00
SYSTEMS							

Train Control and signals							
820	50.02	02892	Traffic Signal System - 900 East & 1100 North	LS	1	\$ 12,493.00	\$ 12,493.00
Communications							
830	50.05	13XXX Series	ATMS System	LS	1	\$ 61,755.00	\$ 61,755.00

Not-to Exceed \$ 2,346,888.02

EXHIBIT C – FEDERAL CLAUSES

ACCESS TO RECORDS AND REPORTS

1. **Record Retention.** The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records. (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
2. **Retention Period.** The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.334. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
3. **Access to Records.** The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information, including such records and information the contractor or its subcontractors may regard as confidential or proprietary, related to performance of this contract in accordance with 2 CFR § 200.337.
4. **Access to the Sites of Performance.** The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract in accordance with 2 CFR § 200.337.

AMERICANS WITH DISABILITIES ACT(ADA)

The contractor agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any

subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

BOND REQUIREMENTS

The Federal agency or pass-through entity may accept the recipient's or subrecipient's bonding policy and requirements for construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold. Before doing so, the agency or pass-through entity must determine that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

- (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The bid guarantee must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute any required contractual documents within the specified timeframe.
- (b) A performance bond on the contractor's part for 100 percent of the contract price. A performance bond is a bond executed in connection with a contract to secure the fulfillment of all the contractor's requirements under a contract.
- (c) A payment bond on the contractor's part for 100 percent of the contract price. A payment bond is a bond executed in connection with a contract to assure payment as required by the law of all persons supplying labor and material in the execution of the work provided for under a contract.

It is also understood and agreed that if the bidder should withdraw any part or all of their bid within [90] days after the bid opening without the written consent of the Agency, or refuse or be unable to enter into this Contract as provided above, or refuse or be unable to furnish adequate and acceptable Performance and Payment Bonds, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, it shall forfeit its bid guaranty to the extent Agency's damages occasioned by such withdrawal, or refusal, or inability to enter into a Contract, or provide adequate security thereof.

It is further understood and agreed that to the extent the defaulting bidder's bid guaranty shall prove inadequate to fully recompense Agency for the damages occasioned by default, then the bidder agrees to indemnify Agency and pay over to Agency the difference between the bid guarantee and Agency's total damages so as to make Agency whole.

The bidder understands that any material alteration of any of the above or any of the material contained herein, other than that requested will render the bid unresponsive.

Performance Guarantee. A Performance Guarantee in the amount of 100% of the Contract value is required by the Agency to ensure faithful performance of the Contract. Either a Performance Bond or an Irrevocable Stand-By Letter of Credit shall be provided by the Contractor and shall remain in full force for the term of the Contract. The successful Bidder shall certify that it will provide the requisite Performance Guarantee to the Agency within ten

(10) business days from Contract execution. The Agency requires all Performance Bonds to be provided by a fully qualified surety company acceptable to the Agency and listed as a company currently authorized under 31 C.F.R. part 22 as possessing a Certificate of Authority as described hereunder. Agency may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The Agency may secure additional protection by directing the Contractor to increase the amount of the existing bond or to obtain an additional bond.

If the Bidder chooses to provide a Letter of Credit as its Performance Guarantee, the Bidder shall furnish with its bid, certification that an

Appendix VIII - Federal Clauses

Irrevocable Stand-By Letter of Credit will be furnished should the Bidder become the successful Contractor. The Bidder shall also provide a statement from the banking institution certifying that an Irrevocable Stand-By Letter of Credit for the action will be provided if the Contract is awarded to the Bidder. The Irrevocable Stand-By Letter of Credit will only be accepted by the Agency if:

1. A bank in good standing issues it. The Agency will not accept a Letter of Credit from an entity other than a bank.
2. It is in writing and signed by the issuing bank.
3. It conspicuously states that it is an irrevocable, non-transferable, "standby" Letter of Credit.
4. The Agency is identified as the Beneficiary.
5. It is in an amount equal to 100% of the Contract value. This amount must be in U.S. dollars.
6. The effective date of the Letter of Credit is the same as the effective date of the Contract
7. The expiration date of the Letter of Credit coincides with the term of the contract.
8. It indicates that it is being issued in order to support the obligation of the Contractor to perform under the Contract. It must specifically reference the Contract between the Agency and the Contractor the work stipulated herein.

The issuing bank's obligation to pay will arise upon the presentation of the original Letter of Credit and a certificate and draft to the issuing bank's representative at a location and time to be determined by the parties. This documentation will indicate that the Contractor is in default under the Contract.

Payment Bonds. A Labor and Materials Payment Bond equal to the full value of the contract must be furnished by the contractor to Agency as security for payment by the Contractor and subcontractors for labor, materials, and rental of equipment. The bond may be issued by a fully qualified surety company acceptable to (Agency) and listed as a company currently authorized under 31 C.F.R. part 223 as possessing a Certificate of Authority as described thereunder.

BUY AMERICA REQUIREMENTS

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the

United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7.

Build America, Buy America Act. Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget’s “Buy America Preferences for Infrastructure Projects,” 2 CFR Part 184. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b). In accordance with 2 CFR § 184.2(a), the Recipient shall apply the standards of 49 CFR Part 661 to iron, steel, and manufactured products.

Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. § 5323(u) and 49 C.F.R. § 661.11. Domestic preferences for procurements

The bidder or offeror must submit to the Agency the appropriate Buy America certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive. For more information please see the FTA’s Buy America webpage at: <https://www.transit.dot.gov/buyamerica>

CARGO PREFERENCE REQUIREMENTS

The contractor agrees:

- a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this agreement, and which may be transported by ocean vessel, shall be transported on privately owned United States-flag commercial vessels, if available. 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, “Cargo Preference – U.S.-Flag Vessels,” 46 CFR Part 381.
- b. to furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, ‘on-board’ commercial ocean bill-of-lading in English for each shipment of cargo described in 46 CFR § 381.7(a)(1) shall be furnished to both the recipient (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; and
- c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

CHANGES TO FEDERAL REQUIREMENTS

Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation,

other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and

Applicable changes to those federal requirements will apply to each Third Party Agreement and parties thereto at any tier.

CIVIL RIGHTS LAWS AND REGULATIONS

The following Federal Civil Rights laws and regulations apply to all contracts.

The Contractor and any subcontractor agree to comply with all the requirements prohibiting discrimination on the basis of race, color, or national origin of the Title VI of the Civil Rights Action of 1964, as amended 52 U.S.C 2000d, and U.S. DOT regulation "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of the Title VI of the Civil rights Act, "49 C.F. R. Part 21 and any implementing requirement FTA may issue.

1 Federal Equal Employment Opportunity (EEO) Requirements. These include, but are not limited to:

a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.

b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.

2 Nondiscrimination on the Basis of Sex. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.

3 Nondiscrimination on the Basis of Age. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.

4 Federal Protections for Individuals with Disabilities. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. Nondiscrimination. In accordance with 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, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., 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. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. 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, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, 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.

3. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in

Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, 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.

4. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

5. Promoting Free Speech and Religious Liberty. The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

Clean Air Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

Federal Water Pollution Control Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.”

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

Compliance with the Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to

the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

DAVIS BACON ACT AND COPELAND ANTI-KICKBACK ACT

For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, the Contractor shall comply with the Davis-Bacon Act and the Copeland “Anti-Kickback” Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction.” In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States.” The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

DEBARMENT AND SUSPENSION

Debarment and Suspension (Executive Orders 12549 and 12689). A covered transaction (see 2 C.F.R. §§ 180.220 and 1200.220) must not be entered into with any party listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. 180 that implement Executive Orders 12549 (31 U.S.C. § 6101 note, 51 Fed. Reg. 6370,) and 12689 (31 U.S.C. § 6101 note, 54 Fed. Reg. 34131), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Recipient agrees to include, and require each Third Party Participant to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:

- (1) Complies with federal debarment and suspension requirements; and
- (2) Reviews the SAM at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)

It is the policy of the Agency and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined

herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. 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 the Agency deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a).

Finally, for contracts with defined DBE contract goals, the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

ENERGY CONSERVATION

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 (42 U.S.C. § 6201).

EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation

conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

FLY AMERICA

a) Definitions. As used in this clause—

- 1) "International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. 2) "United States" means the 50

States, the District of Columbia, and outlying areas. 3) "U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

- b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencies, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
- c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign- flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

- e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions within include, in part, certain Standard Terms and Conditions required under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR § 200), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, detailed in 2 CFR § 200 or as amended by 2 CFR § 1201, or the most recent version of FTA Circular 4220.1 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Recipient and 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 Recipient, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

NOTICE TO FTA AND U.S. DOT INSPECTOR GENERAL OF INFORMATION RELATED TO FRAUD, WASTE, ABUSE, OR OTHER LEGAL MATTERS

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

- (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
- (3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil

investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. 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 this contract 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 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract 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 who will be subject to the provisions.

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

- a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
 - 1) Procure or obtain covered telecommunications equipment or services;
 - 2) Extend or renew a contract to procure or obtain covered telecommunications equipment or services; or
 - 3) Enter into a contract (or extend or renew a contract) to procure or obtain covered telecommunications equipment or services.

(b) As described in section 889 of Public Law 115-232, “covered telecommunications equipment or services” means any of the following:

- (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
- (2) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- (3) Telecommunications or video surveillance services provided by such entities or using such equipment;
- (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country;

(c) For the purposes of this section, “covered telecommunications equipment or services” also include systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(d) In implementing the prohibition under section 889 of Public Law 115-232, heads of executive agencies administering loan, grant, or subsidy programs must prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered telecommunications equipment or services, to procure replacement equipment or services, and to ensure that communications service to users and customers is sustained.

(e) When the recipient or subrecipient accepts a loan or grant, it is certifying that it will comply with the prohibition on covered telecommunications equipment and services in this section. The recipient or subrecipient is not required to certify that funds will not be expended on covered telecommunications equipment or services beyond the certification provided upon accepting the loan or grant and those provided upon submitting payment requests and financial reports.

(f) For additional information, see section 889 of Public Law 115-232 and 200.471.

PROMPT PAYMENT

(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)

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. In addition, the contractor 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.

The contractor must promptly notify the Agency, 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 the Agency.

RESTRICTIONS ON LOBBYING

Conditions on use of funds.

(a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay 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 any of the following covered Federal actions: 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.

(b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.

(c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.

(d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, whether that person has made or has agreed to make any payment to influence or attempt 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 that loan insurance or guarantee.

(e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form if that person has made or has agreed to make any payment to influence or attempt 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 that loan insurance or guarantee.

Certification and disclosure.

(a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:

- (1) Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or
- (2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.

(b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

- (1) A Federal contract, grant, or cooperative agreement exceeding \$100,000; or
- (2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000,

Unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.

(c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:

- (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
- (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,

(3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:

(1) A subcontract exceeding \$100,000 at any tier under a Federal contract;

(2) A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant;

(3) A contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or,

(4) A contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement,

Shall file a certification, and a disclosure form, if required, to the next tier above.

(e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.

(f) Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.

(g) For awards and commitments in process prior to December 23, 1989, but not made before that date, certifications shall be required at award or commitment, covering activities occurring between December 23, 1989, and the date of award or commitment. However, for awards and commitments in process prior to the December 23, 1989 effective date of these provisions, but not made before December 23, 1989, disclosure forms shall not be required at time of award or commitment but shall be filed within 30 days.

(h) No reporting is required for an activity paid for with appropriated funds if that activity is allowable under either subpart B or C.

SAFE OPERATION OF MOTOR VEHICLES

Seat Belt Use

The Contractor 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 vehicles, company rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or Agency.

Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

SEISMIC SAFETY

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

SIMPLIFIED ACQUISITION THRESHOLD

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327.

The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America’s eligibility and process requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).

SOLID WASTES (RECOVERED MATERIALS)

(a) A Recipient or subrecipient that is a State agency or agency of a political subdivision of a State and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. 6962. The requirements of Section 6002

include procuring only items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(b) The recipient or subrecipient should, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single-use plastic products. See Executive Order 14057, section 101, Policy.

SPECIAL DOL EEO CLAUSE FOR CONSTRUCTION PROJECTS

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation

information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon

contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

Applies to States –

- a. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:
 - (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
 - (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
 - (3) The amount of federal assistance FTA has provided for a State Program or Project.

b. Documents - The State agrees to provide the information required under this provision in the following documents:

- (1) applications for federal assistance,
- (2) requests for proposals or solicitations,
- (3) forms,
- (4) notifications,
- (5) press releases,
- (6) other publications.

TERMINATION

Termination for Convenience (General Provision)

The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency'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 shall promptly submit its termination claim to Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

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 Agency 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 be paid only 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 Agency 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 Agency, 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.

Opportunity to Cure (General Provision)

The Agency, 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 Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by

Contractor of written notice from Agency setting forth the nature of said breach or default, Agency 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 Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach

In the event that Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Agency shall not limit Agency's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Termination for Convenience (Professional or Transit Service Contracts)

The Agency, by written notice, may terminate this contract, in whole or in part, when it is in the Agency's interest. If this contract is terminated, the Agency shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

Termination for Default (Supplies and Service)

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

Termination for Default (Transportation Services)

If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve

the goods until surrendered to the Agency or its agent. The Contractor and Agency shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

Termination for Default (Construction)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Agency may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Agency resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Agency in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if: 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and 2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract. 3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

Termination for Convenience or Default (Architect and Engineering)

The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Agency's

Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the Agency, the Agency's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Agency may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Agency

Termination for Convenience or Default (Cost-Type Contracts)

The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the Agency, or property supplied to the Contractor by the Agency. If the termination is for default, the Agency may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of Agency, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a Notice of Termination for Default, the Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

VETERANS HIRING PREFERENCE

Veterans Employment - Construction contracts of Federal financial assistance shall ensure that contractors working on a capital project funded using such assistance give a

hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

VIOLATION AND BREACH OF CONTRACT

Disputes:

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the agency. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the agencies authorized 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 agencies authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance during Dispute:

Unless otherwise directed by the agencies authorized representative, 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 damages therefore shall be made in writing to such other party within a 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 agencies authorized representative and 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 Agency is located.

Rights and Remedies:

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 law. No action or failure to act by the Agency 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.

OTHER RECOMMENDED CONTRACT REQUIREMENTS

CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards pursuant to 23 CFR § 940. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

(1) The contractor certifies that it:

- (a) Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
- (b) Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

If the contractor cannot so certify, the Recipient will refer the matter to FTA and not enter into any Third Party Agreement with the Third Party Participant without FTA's written approval.

(2) Flow-Down. The Recipient agrees to require the contractor to flow this requirement down to participants at all lower tiers, without regard to the value of any subagreement.

SEVERABILITY

The Contractor agrees that if any provision of this agreement or any amendment thereto is determined to be invalid, then the remaining provisions thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

TRAFFICKING IN PERSONS

The contractor agrees that it and its employees that participate in the Recipient's Award, may not:

- (a) Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect;
- (b) Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or
- (c) Use forced labor in the performance of the Recipient's Award or subagreements thereunder.

Exhibit D – Davis Bacon

"General Decision Number: UT20240093 08/09/2024

Superseded General Decision Number: UT20230093

State: Utah

Construction Type: Heavy

HEAVY CONSTRUCTION PROJECTS

County: Utah County in Utah.

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658.

Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022: 	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$17.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2024.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022: 	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/05/2024
1	08/09/2024

* ELEC0354-005 06/01/2024

	Rates	Fringes
ELECTRICIAN.....	\$ 41.23	1.3%+17.12

ENGI0003-034 07/01/2020		

	Rates	Fringes
POWER EQUIPMENT OPERATOR (Mechanic).....	\$ 33.04	16.09

LABO0295-002 07/01/2019		

	Rates	Fringes
TRAFFIC CONTROL (Flagger).	\$ 23.71	9.78

SUUT2018-004 05/07/2020		

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 19.69	1.17
LABORER: Common or General.....	\$ 17.65	8.59
LABORER: Pipelayer.....	\$ 18.57	3.50
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 23.47	11.24

OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 25.29	0.00
OPERATOR: Loader.....	\$ 28.16	11.90
TRUCK DRIVER: Dump Truck.....	\$ 21.80	11.41

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in

this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

State Adopted Rate Identifiers

Classifications listed under the ""SA"" identifier indicate that the prevailing wage rate set by a state (or local) government was adopted under 29 C.F.R. 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination.

01/03/2024 reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations.

Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7).

Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board).

Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
THROUGH: Jay Fox, Executive Director
FROM: David Hancock, Chief Capital Services Officer
PRESENTER(S): Jared Scarbrough, Director of Capital Design & Construction

TITLE:

Change Order: Mid-Valley Bus Rapid Transit (MVX) Construction Change Order 6 - Station Amenity Purchase Authorization (Stacey & Witbeck, Inc.)

AGENDA ITEM TYPE:

Procurement Contract/Change Order

RECOMMENDATION:

Approve Change Order Number 6 and authorize the Executive Director to execute the change order and associated disbursements with Stacy & Witbeck, Inc. (SWI) in the amount of \$433,096.22 for the procurement of benches, map kiosks, and station signs.

BACKGROUND:

On January 24, 2024 the Board of Trustees approved Contract 23-03786 with SWI to construct the Mid-Valley BRT (MVX) project and issued an Approval to Proceed No. 1 (ATP1) for Phase I work on the project.

In order to keep the project on schedule, in March 2024, UTA requested the Federal Transit Administration (FTA) issue a Letter of No Prejudice (LONP) for the project to continue work prior to receiving final grant approval. The LONP was approved by the FTA on May 15, 2024 and UTA subsequently approved the contractor to work on the LONP items.

Finally, In December 2024, FTA approved the Small Starts Grant Agreement (SSGA) for this project allowing UTA to execute the rest this contract on December 18, 2024.

This change order is over and above the original contract cost.

DISCUSSION:

UTA Staff is requesting approval of the change order in the amount of \$433,096.22 to allow SWI to purchase and install items which were originally designated as 'owner furnished' items on the contract. By allowing the contractor to purchase these items, the risk then is transferred to SWI to store and receive items in time for the project to open.

This contract is a traditional Design-Bid-Build contract and this change order does not change the current timeframe or effective dates.

CONTRACT SUMMARY:

Contractor Name:	Stacy & Witbeck, Inc.
Contract Number:	23-03786-06
Base Contract Effective Dates:	January 10, 2024 - December 31, 2026
Extended Contract Dates:	N/A
Existing Contract Value:	\$52,627,776.80
Amendment Amount:	\$433,096.22
New/Total Contract Value:	\$53,060,873.02
Procurement Method:	RFP- Best Value
Budget Authority:	2025 Approved Capital Budget

ALTERNATIVES:

If this change order is not approved, UTA would need to purchase these items and ensure that the procurement and delivery did not delay the project.

FISCAL IMPACT:

The approved 2025 Capital Budget includes \$45,000,000 in the MSP253 - Mid-Valley Connector capital project. Sufficient funds for this project are also planned in years 2026 and 2027 of the capital plan to cover these costs.

The majority of these costs are offset by State Allocations, State Transit Transportation Investment Funds (TTIF), and a federal Small Starts Grant Agreement. The Small Starts Grant Agreement was recently executed. Funding agreements are in place for the outside revenue sources.

2025 Budget Amount: \$45,000,000.00

Total Change Order #6 amount of \$433,096.22 for 2025.

2026 Plan Amount: \$30,000,000.00

2027 Plan Amount: \$8,594,000.00

ATTACHMENTS:

- Change Order: Mid-Valley Connector BRT Construction - Stacey & Witbeck, Inc. - Change Order No. 06
-



CCO #SWI-CO-006

Project: MSP253 - Mid-Valley Connector
4700 West Redwood Road
Taylorsville, Utah 84123

Subcontract Change Order #SWI-CO-006: CE #SWI-CE-006 - OFCI
Material (RFI 014)

CONTRACT COMPANY:	Stacy and Witbeck, Inc. 1958 W North Temple Salt Lake City, Utah 84116	CONTRACT FOR:	233786-OG:Commitment to Stacy and Witbeck, Inc.
DATE CREATED:	1/10/2025	CREATED BY:	Todd Hopkins (Utah Transit Authority)
CONTRACT STATUS:	Pending - Proceeding	REVISION:	0
REQUEST RECEIVED FROM:	LOCATION:		
DESIGNATED REVIEWER:	REVIEWED BY:		
DUE DATE:	REVIEW DATE:		
INVOICED DATE:	PAID DATE:		
REFERENCE:	CHANGE REASON:	Configuration Change (Update to the deliverable like painting, updated materials, etc.)	
PAID IN FULL:	No	EXECUTED:	No
ACCOUNTING METHOD:	Amount Based	SCHEDULE IMPACT:	
FIELD CHANGE:	No	SIGNED CHANGE ORDER RECEIVED DATE:	
		TOTAL AMOUNT:	\$433,096.22

DESCRIPTION:
CE #SWI-CE-006 - OFCI Material (RFI 014)
This change order is to authorize the contractor to purchase the items that were mistakenly included as owner furnished items in the project. Items are related to station amenities and include station benches, information kiosks and station name signs. The contractor can purchase and store and install them with the stations and the risk of delays is then placed on the contractor. Requested change order amount is \$433,096.22 and will require UTA Board approval. There is no schedule impact associated with this change request.

ATTACHMENTS:
[MVX - SWI COR 017 - RFI 014 - OFCI Material - 12.31.2024.pdf](#), [MSP253 owner furnished items ICE.pdf](#)

IT IS MUTUALLY AGREED	No	DATE OF DESIRED EXTENSION:	
UPON, THERE IS A SCHEDULE IMPACT DUE TO THIS CHANGE ORDER:			
THIS ITEM IS UNDER UTA'S SIMPLIFIED ACQUISITION THRESHOLD (\$200,000) AND REQUIRES NO ICE. THE COST WAS DETERM:	No	THIS ITEM IS GREATER THAN UTA'S SIMPLIFIED ACQUISITION THRESHOLD (\$200,000) AND THUS REQUIRES AN INDEPENDENT :	Yes
INDEPENDENT COST ESTIMATE (ICE) LINK, IF APPLICABLE:		DIRECTION OR AUTHORIZATION TO PROCEED (DAP) PREVIOUSLY EXECUTED::	No



CCO #SWI-CO-006

CHANGE ORDER APPROVAL

CHANGE ORDER LEGAL STATEMENT: The amount of any adjustment to time for Substantial Completion and/or Guaranteed Completion or Contract Price includes all known and stated impacts or amounts, direct, indirect and consequential, (as of the date of this Change Order) which may be incurred as a result of the event or matter giving rise to this Change Order. Should conditions arise subsequent to this Change Order that impact the Work under the Contract, including this Change Order, and justify a Change Order under the Contract, or should subsequent Change Orders impact the Work under this Change Order, UTA or the Contractor may initiate a Change Order per the General Provisions, to address such impacts as may arise.

REQUIRED SIGNATURES EXPLANATION:

- Project Manager** \$0 - 24,999
- Legal Review** \$25k or greater
- Dir. of Capital Projects** \$25k - 74,999
- Chief Service Dev. Ofcr.** \$75k - 199,999
- Executive Director** \$200,000+
- Procurement/Contracts** (for all)

SIGNATURE (LEGAL):

By: _____
 Name: Michael Bell
 Date: 1/13/2025

DocuSigned by:

Michael Bell
 70E33A415BA44F6...

PM APPROVAL:

The costs associated with this item have been measured against the standard schedule of rates and the agreed contract pricing, (where applicable) and have been deemed consistent and appropriate for the proposed scope of work.

SIGNATURE (PROJECT MANAGER):

By: _____
 Name: Andrea Pullos
 Date: 1/13/2025

DocuSigned by:

Andrea Pullos
 5D51572AEF504AC...

DIRECTOR CO APPROVAL:

I have evaluated the content of this change order and the scope of work described in the contract. I have determined that this change order pricing is fair and reasonable based on a review of contractor quotes and the original contract rates.

SIGNATURE (DIRECTOR):

By: _____
 Name: _____
 Date: _____

SIGNATURE (PROCUREMENT):

By: _____
 Name: vicki woodward
 Date: 1/13/2025

DocuSigned by:

Vicki Woodward
 730838A1B5E7493...

SIGNATURE (CHIEF SERVICE DEVELOPMENT OFFICER):

By: _____
 David Hancock, Chief Service Development Officer
 Date: _____

SIGNATURE (EXECUTIVE DIRECTOR):

By: _____
 Jay Fox, Executive Director
 Date: _____

CHANGE ORDER LINE ITEMS:

#	Budget Code	Description	Amount
1	20-3253.63000.2001 At-grade station stop shelter	CO-006 OFCI Materials	\$433,096.22
Grand Total:			\$433,096.22



CCO #SWI-CO-006

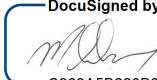
The original (Contract Sum)	\$ 4,090,470.00
Net change by previously authorized Change Orders	\$ 48,537,306.80
The contract sum prior to this Change Order was	\$ 52,627,776.80
The contract sum would be changed by this Change Order in the amount of	\$ 433,096.22
The new contract sum including this Change Order will be	\$ 53,060,873.02
The contract time will not be changed by this Change Order.	

N/A

SIGNATURE

DATE

Stacy and Witbeck, Inc.
1958 W North Temple
Salt Lake City, Utah 84116

DocuSigned by:

C963A5B280B24C0

SIGNATURE

Maverick Gibbons

1/12/2025

DATE



Job #: MSP253 Mid-Valley Connector
4700 West Redwood Road
Taylorsville Utah. 84123

Change Orders: Commitments (5)

Contract	#	Revision	Title	Date Initiated	Contract Company	Designated Reviewer	Due Date	Review Date	Status	Amount
Contract #233786-OG	SWI-CO-006	0	CE #SWI-CE-006 - OFCI Material (RFI 014)	01/10/25	Stacy and Witbeck, Inc.	Unassigned			Pending - Proceeding	\$433,096.22
Contract #233786-OG	SWI-CO-005	0	CE #SWI-CE-005 - Water Loops (RFI 064 and RFI 075)	12/23/24	Stacy and Witbeck, Inc.	Unassigned		12/26/24	Approved	\$117,263.80
Contract #233786-OG	SWI-CO-003	0	CE #SWI-CE-003 - Mid-Valley BRT (MVX) Phase II ATP3 Construction	11/03/24	Stacy and Witbeck, Inc.	Unassigned		12/23/24	Approved	\$34,309,128.00
Contract #233786-OG	SWI-CO-002	0	CE #SWI-CE-002 - 4700 South Drainage Changes	10/18/24	Stacy and Witbeck, Inc.	Unassigned		10/18/24	Approved	\$131,937.00
Contract #233786-OG	SWI-CO-001	0	CE #SWI-CE-001 - Mid-Valley BRT (MVX) Phase II LONP ATP Construction Services	10/18/24	Stacy and Witbeck, Inc.	Unassigned		10/18/24	Approved	\$13,978,978.00

Total: \$48,970,403.02

STACYWITBECK

December 31, 2024

SWI Change Order Request 017

Andrea Pullos
Project Manager
Utah Transit Authority
669 West 200 South
Salt Lake City, UT 84101

Reference: Midvalley Connector
UTA Contract No. 23-03786VW

Subject: MVX - SWI COR 017 - RFI 014 - OFCI Material

Dear Andrea,

Stacy Witbeck respectfully submits the following pricing for changes related to RFI 014 - OFCI Material on the Midvalley Connector Project.

SWI PCO 008 – RFI 014 - OFCI Material:


UTA requested that Stacy Witbeck procure the following originally Owner Furnished Contractor Installed (OFCI) materials for station amenities: Station Benches, Information Kiosks, and Station Name Signs. Stacy Witbeck procured pricing as detailed in the attached.

Based on the changes enumerated above, we are requesting a change order in the amount of \$433,096.22 and 0 additional days.

If you have any questions or need any additional information, please do not hesitate to contact us.

Sincerely,

Stacy Witbeck

 Maverick
Gibbons
2024.12.31
08:57:40-07'00'

Maverick Gibbons
Project Manager

BIDITEM	SCC #	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	BID TOTAL
NEW	20.01	RFI 014 - OFCI Material - Procure - Station Map Display	25	EA	\$ 1,938.44	\$ 48,461.00
NEW	20.01	RFI 014 - OFCI Material - Procure - Station Name Sign	25	EA	\$ 3,450.00	\$ 86,250.00
NEW	20.01	RFI 014 - OFCI Material - Procure - Station Benches - 4'	38	EA	\$ 5,156.16	\$ 195,934.08
NEW	20.01	RFI 014 - OFCI Material - Procure - Station Benches - 8'	7	EA	\$ 6,551.29	\$ 45,859.03
DIRECT TOTAL						\$ 376,504.11
3110	40.08	QC & QA (1.52%)	1	LS	\$ 6,482.29	\$ 6,482.29
3130	40.08	PUBLIC INFORMATION (0.82%)	1	LS	\$ 3,497.03	\$ 3,497.03
3140	40.08	TRAFFIC CONTROL (2.05%)	1	LS	\$ 8,742.56	\$ 8,742.56
3150	40.08	TEMP PED ACCESS (0.11%)	1	LS	\$ 469.12	\$ 469.12
3160	40.08	SURVEY (0.79%)	1	LS	\$ 3,369.09	\$ 3,369.09
3170	40.08	CONTRACTOR INDIRECTS (6.71%)	1	LS	\$ 28,615.89	\$ 28,615.89
3180	40.08	MISC INS/BOND/CONTING (1.27%)	1	LS	\$ 5,416.13	\$ 5,416.13
INDIRECT TOTAL						\$ 56,592.11
BID TOTAL						\$ 433,096.22


Douglas Belsheim

From: Raquel Gilliland
Sent: Thursday, October 10, 2024 3:53 PM
To: Douglas Belsheim
Subject: FW: Your Quote Request #D534

Raquel Gilliland
928.358.2145

From: PosterDisplays4Sale <orders@posterdisplays4sale.com>
Sent: Thursday, October 10, 2024 12:18 PM
To: Raquel Gilliland <rgilliland@stacywitbeck.com>
Subject: Your Quote Request #D534

CAUTION: This email originated from outside of the organization



SNAP FRAMES

SWINGFRAMES

SLIDE-IN FRAMES

ALL PRODUCTS

Your Quote Request

Below is your formal quote. Please click the button to complete your purchase.

Complete Purchase

[Visit our store](#)

Billing Address

Shipping Address

RAQUEL GILLILAND
STACY WITBECK
1958 W NORTH TEMPLE ST
SALT LAKE CITY UT 84116
United States

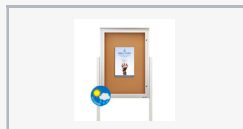
RAQUEL GILLILAND
STACY WITBECK
960 W Levoy Dr
Taylorsville UT 84123
United States

Additional Information

Production lead time is approximately 6-8 weeks from return of signed quote and prepayment in full. Please note that this is an estimate and is not guaranteed. Quotes are valid for 60 days.

LTL FREIGHT - DOCK TO DOCK. Additional fees for delivery to a residential/school address, liftgate service, inside delivery service, call ahead service, limited access loading docks, or redeliveries. Basic Freight requires a Commercial location which has a raised commercial loading dock, a 48" high loading dock, for receiving truck/freight trailers and has a pallet jack or fork lift for unloading the truck.

Order Details:



EXTREME WeatherPLUS™ Outdoor Enclosed Bulletin Board Stands with 2 Posts | Single Locking Door SwingCase 15+ Sizes & Custom

SKU: LSCBB-WPLUS

Selections

Item Price: \$1,245.00

Quantity: 28

Total: \$34,860.00

Your Selections:

- Viewable Area: 24" x 36"
- Overall Size: See Size Chart
- Overall Depth : 3 1/8" Deep
- WeatherPLUS: YES - Extreme Weather Add-ons
- Post: Included (Set of 2)
- Orientation: Portrait
- Frame Finish: Satin Silver
- Forbo Color: Tan
- Window: Tempered Glass



CUSTOM PART

SKU: CSTM-RSL

Detail

Item Price: \$260.00

Quantity: 28

Total: \$7,280.00

Your Selections:

- Detail:
CUSTOM PART
KEY Set of Two Surface Mount boots to attach freestanding unit to existing concrete
CUSTOMS ARE NOT RETURNABLE. +/- 1/8" Tolerance for all custom displays.

Product Subtotal:	\$42,140.00
LTL FREIGHT - DOCK TO DOCK.	\$0.00
Tax:	\$0.00
Order total:	\$42,140.00 USD

QUOTATION

268539-01

Quotation No: 268539-01
Project: UTA UVX BRT-OP01 Midvalley
Specifier: PIVOT Architects, Eugene, OR
Territory Manager: ROBERT HARLOW

To:
Stacy Witbeck-Salt Lake City UT
.
.
United States

Quotation Valid Thru11/30/2024

Pricing Assumes Projected Delivery Q1 2025
Purchaser to Provide Clean Release for the Lead Times as defined in General Notes

AttentionESTIMATING DEPARTMENT

Contact Phone

Terms50%DEP,BAL NET30 OAC

Item	Part / Rev / Description / Details	Quantity	Unit Price	Extended Price
001	<div><div>SBKNI-096BARev: NSU/M: EA</div><div>PRODUCT: KNIGHT BENCH</div><div>Dimension: 96" L X 22.7" D X 31.1" H Configuration: Backed Slat Material: Aluminum with Cast Zinc Endcaps Slat Finish: Powdercoat, Black Texture Frame Material: Solid Aluminum Frame Finish: Powdercoat Inner Surfaces, Black Texture Polished Edges And Clear Top Coat Armrests: Two (External) / One (Intermediate) Mounting: Surface Mount Weight: 194.8 lbs</div><div>*MOUNTING HARDWARE KIT SOLD AND LISTED SEPARATELY: SEE LINE ITEMS BELOW Match previous F+S SO 162952 ordered 09-27-2022.</div></div>	7.0000	4,616.00	32,312.00
002	<div><div>906-00246Rev: 000U/M: EA</div><div>KNIGHT BENCH MOUNTING HARDWARE KIT-8FT STANDALONE (1 OF 2)</div><div>1/2" Sst & Epoxy Anchor Kit 1</div><div>*MOUNTING HARDWARE KIT COMPONENTS LISTED IN ADDENDUM PAGE</div></div>	7.0000	208.00	1,456.00
003	<div><div>911-00033Rev: 000U/M: EA</div><div>KNIGHT BENCH MOUNTING HARDWARE KIT-8FT STANDALONE (2 OF 2)</div><div>1/2" Sst & Epoxy Anchor Kit 2</div><div>*MOUNTING HARDWARE KIT COMPONENTS LISTED IN ADDENDUM PAGE</div></div>	7.0000	107.00	749.00
004	<div><div>SBKNI-072BA-CUSTOMRev: NSU/M: EA</div><div>PRODUCT: KNIGHT BENCH</div><div>MODIFIED LENGTH Modified Dimension: 48" L X 22.7" D X 31.1" H</div></div>	38.0000	3,633.00	138,054.00

CUSTOMER COPY

QUOTATION		# 268539-01		
	<div>Configuration: Backed</div> <div>Slat Material: Aluminum with Cast Zinc Endcaps</div> <div>Slat Finish: Powdercoat, Black Texture</div> <div>Frame Material: Solid Aluminum</div> <div>Frame Finish: Powdercoat Inner Surfaces, Black Texture</div> <div>Polished Edges And Clear Top Coat</div> <div>Armrests: Two (External)</div> <div>Mounting: Surface Mount</div> <div>AS PER F+S APPROVED DRAWING</div> <div>*MOUNTING HARDWARE KIT SOLD AND LISTED SEPARATELY: SEE LINE ITEMS BELOW</div> <div>CUSTOM 4'0" length.</div> <div>Shop drawings required before order approval.</div> <div>Materials and finish match previous F+S SO# 154795-02 ordered 07-30-2021.</div>			
005	<div>906-00246Rev: 000U/M: EA</div> <div>KNIGHT BENCH MOUNTING HARDWARE KIT-6FT STANDALONE AND WALL-MOUNT</div> <div>1/2" Sst & Epoxy Anchor Kit 1</div> <div>*MOUNTING HARDWARE KIT COMPONENTS LISTED IN ADDENDUM PAGE</div>	38.0000	208.00	7,904.00
006	<div>SXHPFRev: 000U/M: EA</div> <div>HANDLING, PACKAGING & FREIGHT</div> <div>SINGLE SHIPMENT - COMMON CARRIER GROUND SERVICE</div> <div>FOB - ORIGIN</div>	1.0000	27,072.00	27,072.00
007	<div>SXINSURev: 000U/M: EA</div> <div>ADD FOR FOB DESTINATION</div> <div>Receiving parties are responsible to document via digital images, notate on delivery receipt prior to signing, and immediately notify an F+S representative of any visible damage to the exterior of crating or packaging.</div> <div>Actual inspection of goods must be completed and any damage claims filed within 48 hours of delivery.</div> <div>Please Note: This is an Optional Added Value Service and can be Declined</div> <div>_____Decline</div>	1.0000	2,707.00	2,707.00

Total Items Price	US\$ 210,254.00
Total Tax	Not Applied
Grand Total	US\$ 210,254.00

GENERAL NOTES:

CUSTOMER-CONFIRMED DESIRED SHIP DATE / LEAD TIME INFO:

For scheduling purposes, it is critical to establish an accurate Desired Ship Date.

- If the necessary deposit and approvals are not provided in time to meet the customer-confirmed Desired Ship Date, pricing is subject to change at the discretion of Forms+Surfaces (F+S).

CUSTOMER COPY

text message from GMAC confirming \$3k/EA for
name signs - 12/19/2024

Yesterday • 11:50 AM

Yes it was 3k that was taken off for signs.

11:50 AM



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
THROUGH: Jay Fox, Executive Director
FROM: David Hancock, Chief Capital Services Officer
PRESENTER(S): Jared Scarbrough, Director of Capital Design and Construction
Jacob Wouden, Project Manager

TITLE:

Change Order: On-Call Infrastructure Maintenance Contract Task Order 25-001 - 2025 Project Manager and Construction Manager Fees (Stacey and Witbeck, Inc.)

AGENDA ITEM TYPE:

Procurement Contract/Change Order

RECOMMENDATION:

Approve Task Order 25-001 and authorize the Executive Director to execute the task order and associated disbursements with Stacey and Witbeck, Inc. in the amount of \$626,080.00 in 2025 for construction and pre-construction management fees.

BACKGROUND:

In December 2023, UTA released a Request for Proposal (RFP) for an on-call maintenance contractor focused specifically on infrastructure assets. Bids were received and evaluated, and Stacy and Witbeck, Inc. was selected as the winner based on overall scoring using the best value format. On April 18, 2024, the UTA Board of Trustees approved the Master Task Ordering Agreement (MTOA) contract (23-03811) and authorized the Executive Director to execute the contract with Stacy and Witbeck, Inc.

The MTOA is for three (3) years, plus two (2) one-year options, with a total 5-year not-to-exceed value of \$45,000,000.

As part of the MTOA, UTA asked that winning contractors provide a dedicated project manager and construction manager, that they be located at the Jordan River Rail Service Center, and that these two full-time staff members be dedicated to UTA.

DISCUSSION:

UTA Staff is requesting approval of Task Order 25-001 in the amount of \$626,080 through December 31, 2025 with Stacy and Witbeck, Inc. 2025 Pre-Construction and Construction Management Fees.

The 2025 rates for standard 40-hour work week are as follows:

Title	Rate	Total
Infrastructure Superintendent	\$164.00/Hr. @ 2,080 hours	\$341,120
Infrastructure Project Manager	\$137.00/Hr. @ 2,080 hours	\$284,960
		\$626,080

CONTRACT SUMMARY:

Contractor Name:	Stacy and Witbeck, Inc.
Contract Number:	23-03811-25-001
Base Contract Effective Dates:	April 18, 2024 - December 31, 2027 Task Order Period of Performance: through December 31, 2025
Extended Contract Dates:	N/A
Existing Contract Value:	\$7,021,711
Amendment Amount:	\$626,080
New/Total Contract Value:	\$7,647,791
Procurement Method:	RFP - Best Value
Budget Authority:	2025 Approved Capital Budget

ALTERNATIVES:

Do not pay pre-construction fees which would stop all on-call work and Standard Gauge Railway (SGR) replacements. Additionally, this would place UTA in breach of agreed upon contract terms.

FISCAL IMPACT:

The approved 2025 Capital Budget includes \$6,500,000.00 in available funds from SGR385 - Rail Replacement Program for UTA's rail infrastructure rehabilitation and replacement.

2025 Budget: \$6,500,000

Available 2025 budget after previous encumbrances and requisition #14820 is \$4,626,086.

ATTACHMENTS:

- Task Order: Project Manager and Construction Manager Fees 25-001



Task Order Request #TO25-001 - 2025 Project Management Fees

Status	Open	Assignees	Jacob Wouden
Created Date	Jan 22, 2025	Issued Date	Jan 22, 2025
		Location	25-001 Jan -Dec PM fees

TASK ORDER IDENTIFICATION

Contract No	23-03811		
Contractor Name	Stacy and Witbeck, Inc.	Contract Start Date	04/19/24
Account Code(s)	\$626,080.00		

THE PURPOSE OF THIS TASK ORDER IS TO SPECIFICALLY DEFINE THE SCOPE, SCHEDULE, LUMP SUM PRICE, AND OTHER TERMS APPLICABLE TO THE WORK IDENTIFIED HEREIN.

UTA AND THE CONTRACTOR HEREBY AGREE AS FOLLOWS:

1.0 SCOPE OF SERVICES

The contractor's scope letter and price estimate is hereby attached and incorporated into this Task Order	Letter 02 - 2025 Pre-Construction and Construction Management Fees.pdf
---	--

2.0 SCHEDULE

The Substantial Completion Date for this Task is	12/31/25	The Final Acceptance Date for this Task is	12/31/25
--	----------	--	----------

3.0 PRICING

The pricing agreement for this item is one of the following:	Lump Sum	Invoices will be billed on a monthly basis for completed work to date. The price for this item is in the amount of	\$626,080.00
Independent Cost Estimate (ICE) link, if applicable	ICE- Construction Mgmt Fees 2025.xlsx	This item is under UTA's simplified acquisition threshold (\$200,000) and requires no ICE. The cost was determined to be fair and reasonable based on a review of contractor quotes and the original contract rates	No

This item is greater Yes
than UTA's
simplified
acquisition
threshold
(\$200,000) and thus
requires an
Independent Cost
Estimate (ICE). I
have reviewed and
found the ICE
within the
appropriate range
for approval

4.0 APPLICABILITY OF FEDERAL CLAUSES

Does this Task Order include federal assistance funds which requires the application of the Federal Clauses appended as Exhibit D to the Contract? Yes

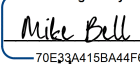
If federal assistance funds are anticipated, the UTA Civil Rights group has set a Disadvantaged Business Enterprises (DBE) participation goal for this Task Order of Race Neutral

IN WITNESS WHEREOF, THIS TASK ORDER HAS BEEN EXECUTED BY UTA AND CONTRACTOR OR ITS APPOINTED REPRESENTATIVE

UTAH TRANSIT AUTHORITY:

Required Signatures Explanation
Project Manager \$0 - 24,999
Legal Review \$25k or greater
Dir. of Capital Projects \$25k - 74,999
Chief Service Dev. Ofcr. \$75k - 199,999
Executive Director \$200,000+
Procurement/Contracts (for all)

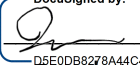
Signature (Legal)

DocuSigned by:
By: 
70E33A415BA44F6
Name: Mike Bell
Date: 1/22/2025

PM Approval

The costs associated with this item have been measured against the standard schedule of rates and the agreed contract pricing, (where applicable) and have been deemed consistent and appropriate for the proposed scope of work.

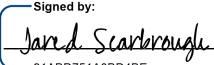
Signature (Project Manager)

DocuSigned by:
By: 
D5E0DB8278A44C4
Name: Jacob Wouden
Date: 1/22/2025

Director Approval

I have evaluated the content of this task order and the scope of work described in the task ordering agreement and have made the determination that this Task Order is within the scope of work contemplated and described by the contracting parties when they executed the original task ordering agreement.

Signature (Director)

Signed by:
By: 
91ABD751A9BD4BE
Name: Jared Scarbrough
Date: 1/22/2025

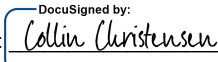
Signature
(Procurement) By: _____
Name: _____
Date: _____

Signature (Chief
Service
Development
Officer) By: _____
David Hancock, Chief Service Development Officer
Date: _____

Signature
(Executive Director) By: _____
Jay Fox, Executive Director
Date: _____

COMPANY:

COMPANY: Stacy and Witbeck, Inc.

Signature
(Contractor) By:  _____
ACA3AB62608B4E2
Name: Collin Christensen
Date: 1/22/2025

STACYWITBECK

January 15, 2025

On Call Services

Mr. Jacob Wouden
Rail Infrastructure Project Manager
Utah Transit Authority
2264 South 900 West
South Salt Lake City, UT 84119

Reference: Contract #23-03811VW – On-Call Transit Infrastructure Design, Construction, Maintenance and Repair

Subject: Letter 02 - 2025 Pre-Construction and Construction Management Fees

In accordance with section A of the Stacy and Witbeck, Inc. Price Proposal Form for the On-Call Transit Infrastructure Construction, Maintenance and Repair Project proposal, SWI is pleased to provide an anticipated budget for January through December of 2025 Pre-Construction and Construction Management Fees. The 2025 rates are as follows:

Infrastructure Project Manager – Collin Christensen \$137.00/Hr.
Budgeting for 40 hours a week for 12 months (52 weeks)

Infrastructure Superintendent – Courtney Beesley \$164.00/Hr.
Budgeting for 40 hours a week for 12 months (52 weeks).

2025 Combined budget total fee would be:

Infrastructure Project Manager – Collin Christensen - \$284,960.00

Infrastructure Superintendent – Courtney Beesley - \$341,120.00

Combined Budget Total \$626,080.00

SWI will provide a monthly invoice with weekly timecards as backup, reflecting which task orders Collin and Courtney were working on each month. We appreciate the considerations provided for management compensation and look forward to continuing to deliver a high level of service to UTA in the upcoming years.

Please contact me with any questions or concerns.

Sincerely,
Stacy and Witbeck, Inc.



Collin Christensen
Project Manager



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
THROUGH: Jay Fox, Executive Director
FROM: David Hancock, Chief Capital Services Officer
PRESENTER(S): Kyle Stockley, Manager of Capital Vehicles

TITLE:

Change Order: Vehicle Program Management Consultant Services Contract Modification 8 for Increased Services (Mott MacDonald, LLC)

AGENDA ITEM TYPE:

Procurement Contract/Change Order

RECOMMENDATION:

Approve Contract Modification 8 and authorize the Executive Director to execute the modification and associated disbursements to contract 21-03429 with Mott MacDonald, LLC to increase the annual not-to-exceed amount by \$1,000,000 to a total not-to-exceed amount of \$2,350,000 for Year 4 of the contract (July 2024 - June 2025). Exercise of option year 5 at the current annual rate will require future board approval.

BACKGROUND:

UTA engages consultants to provide project management and engineering services in support of the Capital Vehicles team. These services are dedicated to approved rail procurement and overhaul projects as detailed in UTA's 5-Year Capital Plan and include, but are not limited to, the SGR040 Light Rail Vehicle Rehab, MSP252 FrontRunner 2X, and REV238 SD100/SD160 Light Rail Vehicle Replacement projects.

Contract 21-03429 was originally approved by the Board of Trustees on July 14, 2021, as a three (3) year base contract and included two (2) one-year extensions, potentially extending the contract to June 30, 2026. The Year 4 option for services was exercised in June 2024 and is currently set to expire on June 30, 2025.

DISCUSSION:

UTA staff is requesting approval of Contract Modification 8 for Contract 21-03429, which will increase the annual not-to-exceed amount by \$1,000,000 to a total annual not-to-exceed amount of \$2,350,00 in order to provide continued support for the vehicle related projects in the approved 2025-2029 5-Year Capital Plan. This

increase applies to option Year 4 only which expires June 30, 2025. Exercise of option year 5 will require future board approval.

CONTRACT SUMMARY:

Contractor Name:	Mott MacDonald, LLC
Contract Number:	21-03429
Base Contract Effective Dates:	July 16, 2021 - June 30, 2025
Extended Contract Dates:	N/A
Existing Contract Value:	\$4,650,000
Amendment Amount:	\$1,000,000
New/Total Contract Value:	\$5,650,000
Procurement Method:	RFP Best Value
Budget Authority:	2025 Approved Capital Budget

ALTERNATIVES:

Reprocure consulting services. This step will significantly impact the schedule of the two rail procurement projects.

FISCAL IMPACT:

The approved 2025 Capital Budget includes:

\$10,200,000 for SGR040 Light Rail Vehicle Rehabilitation
\$2,592,000 for the MSP252 Frontrunner 2X project
\$34,400,000 for the REV238 SD100/SD 160 Light Rail Vehicle Replacement

Of the \$1,000,000 requested in Contract Modification Number 08:

\$350,000 will come from the SGR040 Light Rail Vehicle Rehab 2025 approved budget. The available 2025 SGR040 budget after previous encumbrances and this request is \$5.55 million.

\$330,000 will come from the MSP252 FrontRunner 2X 2025 approved budget. UDOT will be reimbursing UTA for these Frontrunner 2X vehicle planning and procurement costs. The available 2025 MSP252 budget after previous encumbrances and this request is \$425,000.

\$320,000 will come from the REV238 for the SD100/SD 160 Light Rail Vehicle Replacement project approved budget. The available 2025 REV238 budget after previous encumbrances and this request is \$669,000.

ATTACHMENTS:

- Vehicle Program Management Services Consulting (21-03429) - Contract Modification 08 (Mott MacDonald, LLC)
-

UTAH TRANSIT AUTHORITY

January 6, 2025
 Mott MacDonald
 Conrad Fawcett

Sent via email only

Conrad.Fawcett@mottmac.com

RE: Contract 21-03429 Vehicle Program Management Consulting

Dear Mr. Fawcett,

The purpose of this letter is to modify the current Vehicle Program Management Consulting Agreement ("Agreement") between Mott MacDonald (the Consultant) and Utah Transit Authority (UTA) dated July 16, 2021 (UTA Contract Number 21-03429). This Agreement pertains to the performance of Consulting Services for UTA.

This letter (Modification No. 8) is to increase the Not-to-Exceed (NTE) Amount from \$1,350,000 per year to \$2,350,000 per year.

The current Contract value is \$4,650,000. This Modification No. 8 will increase the contract \$1,000,000 per year, for a new Contract value to \$5,650,000.

All other terms and conditions of the original Agreement shall remain in full force and effect.
 If you are in agreement with the above referenced amendment, please sign on the line indicated below.

UTAH TRANSIT AUTHORITY

By _____
 Jay Fox
 Executive Director

By _____
 Dave Hancock
 Chief Capital Services Officer

MOTT MACDONALD, LLC

DocuSigned by:
 By Conrad Fawcett 1/14/2025
 Conrad Fawcett
 Vice President

DocuSigned by:
 By David Warnock 1/10/2025
 David Warnock
 Vice President

Approved to Content and Form
 By Mike Bell 1/9/2025
 Mike Bell
 Assistant Attorney General
 UTA Counsel



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
THROUGH: Jay Fox, Executive Director
FROM: Nichol Bourdeaux, Chief Planning and Engagement Officer
PRESENTER(S): Hal Johnson, Innovative Mobility Solutions Director
Shaina Quinn, IMS Program Manager

TITLE:

Change Order: On-Demand Technologies Master Service Agreement Service Order 05, Amendment 02 - Increased Service Hours in South Salt Lake and South Davis Counties (River North Transit, LLC / Via)

AGENDA ITEM TYPE:

Procurement Contract/Change Order

RECOMMENDATION:

Approve Amendment Number 02 to Service Order Number 05 of Contract 20-03399 and authorize the Executive Director to execute the Amendment and associated disbursements with River North Transit, LLC (DBA Via) in the not-to-exceed amount of \$400,437 for the South Davis County and Southern Salt Lake County Microtransit Zones.

BACKGROUND:

Microtransit, branded as UTA On Demand, has proven to be an effective solution that complements UTA's fixed-route bus and train services by addressing coverage gaps and providing flexible transportation options.

On August 25, 2021, the Board of Trustees approved Contract 20-03399 with River North Transit, LLC (DBA Via) to expand and enhance Microtransit services. The total estimated Master Service Agreement value that is currently approved by the board is \$65,647,075. Total Service Order values must not exceed this approved estimate.

Since its inception, this contract has been modified through a series of service orders to accommodate service expansions and renewals.

Service Order 5 was initially approved by UTA's Board on December 20, 2023, to renew services to Southern

Salt Lake and Southern Davis Counties, and later amended on April 17, 2024, to include fuel costs.

The proposed second amendment to Service Order 5 accommodates the increased service hours planned in UTA’s 2025 budget and is intended to ensure sufficient service capacity to meet growing customer demand and ridership in these key Microtransit zones.

DISCUSSION:

UTA staff is requesting approval of Amendment 2 to Service Order 5 of Contract 20-03399, not-to-exceed \$400,347 From January 1, 2025 through December 31, 2025.

This second amendment increases funding for UTA On Demand Microtransit service in South Davis County and Southern Salt Lake County zones for 12 months. These zones are experiencing significant growth, with ridership increasing 63% in South Davis County and 37% in Southern Salt Lake County from January to October 2024.

The additional funding will provide more service hours to meet growing demand, improving ride availability. The amendment also includes adding two vans to the Southern Salt Lake County zone and one van to the South Davis County zone to support this growth.

CONTRACT SUMMARY:

Contractor Name:	River North Transit, LLC (DBA Via)
Contract Number:	20-03399-05-02
Base Contract Effective Dates:	January 1, 2024 - December 31, 2026
Extended Contract Dates:	N/A
Existing Contract Value:	Service Order 5 Only: \$22,729,653 Total Existing Contract Value: \$55,603,305
Amendment Amount:	\$400,437 (Service Order 5, Amendment 2)
New/Total Contract Value:	Service Order 5 Only: \$23,130,090 New Total Contract Value: \$56,003,742
Procurement Method:	N/A
Budget Authority:	2025 Approved Operating Budget

ALTERNATIVES:

If UTA decides not to increase the service supply, fewer rides would be available to accommodate the growing demand, potentially impacting rider satisfaction and accessibility. Alternatively, UTA could explore other options outlined in the Five-Year Service Plan to address mobility needs and service gaps.

FISCAL IMPACT:

This amendment is consistent with UTA’s approved 2025 operating budget. The approved 2025 UTA operating budget allocates \$1,710,000 to the South Davis zone and \$5,928,000 to the Southern Salt Lake County zone.

The total increased expected spend for this request is not-to-exceed \$400,437 in 2025, with \$284,105 to be allocated to the Southern Salt Lake County zone and \$116,332 to be allocated to the South Davis zone, as

determined based on relative demand. These incremental increases are included in the approved operating budget totals.

All service expenses are funded through the Innovative Mobility Solutions operating expense line item for contracted services in the annual Planning & Engagement budget (6550.050353).

ATTACHMENTS:

- Contract Modification: On-Demand Technologies and Innovative Mobility Services (River North Transit, LLC DBA Via) Contract Modification 05-02

**AMENDMENT NO. 2 TO
SERVICE ORDER NO. 5 UNDER THE
ON-DEMAND TECHNOLOGIES AND INNOVATIVE MOBILITY SERVICES
MASTER SERVICES AGREEMENT
UTA Contract No. 20-03399-5-2**

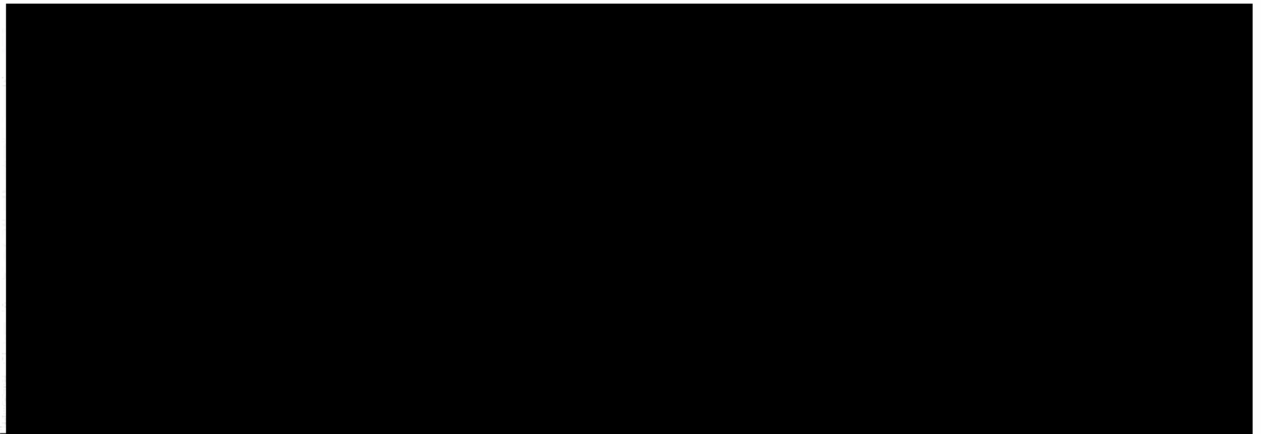
1. Amendment

On January 1, 2024, each of River North Transit, LLC (“**Via**”) and the Utah Transit Authority (“**UTA**” or “**Customer**”), hereinafter collectively referred to as the “**Parties**,” entered into Service Order No. 5 (the “**Service Order**”) under UTA Contract No. 20-03399 (the “**MSA**”) to establish an on-demand transit deployment (“**Deployment**”) in South Davis County, Utah and Southern Salt Lake County, Utah, which was subsequently amended to increase the NTE to account for fuel charges on April 25, 2024.

By Amendment No. 1, the Parties agreed to increase the NTE to include fueling costs

By this Amendment No. 2, the Parties agree to amend the Service Order as follows:

NTE Increase: the Not-to-Exceed fees, detailed in Appendix C of the Service Order, shall be increased by \$400,437 to \$23,130,090. This NTE will cover additional service hours for 2025. The two pricing tables in Appendix C shall be deleted in their entirety and replaced with the two tables below.





2. Duration Terms

This Amendment No. 2 shall be entered into and made effective as of the date of last signature below (the “Effective Date”).

The duration of the Deployment is unchanged and remains as December 31, 2026.

All terms and conditions contained in the MSA and the Service Order are also applicable to this Amendment No. 2. If a term contained in this Amendment No. 2 is in conflict with the general terms of the MSA or the Service Order, the specific term in this Amendment No. 2 shall take precedence. The MSA and Service Order, as well as all amendments and addendums thereto, remain in full force and effect as supplemented by this Amendment No. 2.

This document contains business information which Via claims to be confidential and will be protected from release or disclosure to the full extent permitted by applicable laws (including, without limitation, the Utah Government Records Access and Management Act, UCA 63G-2-101. Et. Seq.)

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment No. 2 to be executed in duplicate as of the date first herein written.

Via: River North Transit, LLC	Customer: Utah Transit Authority
<div>Signed by:</div> <div><div>Alex Lavoie</div><div>12/17/2024</div><div>04FC418E29384AE...</div><div>Alex Lavoie</div><div>Manager or River North Transit, LCC</div></div>	<div><div>Jay Fox</div><div>Executive Director</div></div> <div><div>Nichol Bourdeaux</div><div>Chief Planning and Engagement Officer</div></div> <div><div>Hal Johnson</div><div>Director, Innovative Mobility Solutions</div></div> <div><div>Recommending:</div><div>Shaina Quinn, Program Manager</div></div> <div><div>DocuSigned by:</div><div><div>Mike Bell</div><div>70E33A415BA44F6...</div><div>Mike Bell</div><div>Assistant Attorney General</div><div>UTA Counsel</div></div></div>



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
THROUGH: Jay Fox, Executive Director
FROM: Viola Miller, Chief Financial Officer
PRESENTER(S): Todd Mills, Director of Supply Chain

TITLE:

Pre-Procurements

- **Bus Electric Vehicle Charger Maintenance Contract**
- **Bond Underwriting Services Contracts**
- **Inventory Parts Auto-Purchase-Order Contracts**

AGENDA ITEM TYPE:

Pre-Procurement

RECOMMENDATION:

Informational report for discussion

BACKGROUND:

Utah's Public Transit District Act requires all contracts valued at \$200,000 or greater be approved by the UTA Board of Trustees. This informational report on upcoming procurements allows Trustees to be informed and provide input on upcoming procurement projects. Following the bid solicitation and contract negotiation process, final contracts for these projects will come before the board for approval.

DISCUSSION:

- ***Bus Electric Vehicle Charger Maintenance Contract***

This procurement seeks to contract with a firm to provide maintenance support for bus electric vehicle (EV) charging systems for all bus divisions. This support is needed to ensure the consistent service maintenance of 35 EV charging systems used for powering UTA's electric bus revenue vehicles and would include onsite preventative maintenance, equipment support, repair service, and component parts.

Our previous six-month contract with ABB E-Mobility for support has expired. This requisition is for a two (2) year contract with three (3) one-year options.

Funding for this procurement will be funded locally under 2025 Facilities Operations Expense budget 3800.50353.92. This procurement will be conducted as an RFP. (Req. 14203, Guy Miner & Kevin Anderson)

- ***Bond Underwriting Services Contracts***

This procurement seeks to contract with a pool of firms to provide bond underwriting services. The previous contract, which utilized a similar pool structure, expired in August 2024, and a replacement contract is now needed.

The purpose of the contract is to engage multiple firms that can compete by presenting ideas and financing opportunities. This pool will provide UTA with the financial flexibility to issue bonds for critical capital projects.

Compensation for services will be included in and deducted from the proceeds of the bond issuance. The term of the pool contracts will be five years, and the procurement will be conducted as a Request for Qualifications, awarding contracts to firms that meet the established minimum qualifications. (No-obligation req., Brian Reeves)

- ***Inventory Parts Auto-Purchase-Order Contracts***

The Supply Chain team is seeking to establish new Automatic-Purchase-Order (APO) contracts with multiple parts vendors to supply high-usage parts as needed. Under this system, once JD Edwards reaches the reorder point for a specific part, a requisition will automatically be generated, converted to a Purchase Order, and sent to the designated supplier. UTA is under no obligation to purchase parts until a Purchase Order has been issued.

The Supply Chain team has identified 1,200 parts as suitable candidates for this contract, based on criteria such as usage, lead time, and cost. Proposals will be evaluated, and each part will be awarded to suppliers offering the best combination of cost efficiency and delivery lead times.

The term of these contracts will be five (5) years, with funding for parts purchases allocated within each

division's Maintenance Operating Expense budget as the parts are consumed. (No-Obligation req. Todd Mills)

ATTACHMENTS:

(None)



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
THROUGH: Jay Fox, Executive Director
FROM: Nichol Bourdeaux, Chief Planning and Engagement Officer
PRESENTER(S): Cindy Medford, Manager of Customer Service

TITLE:

Constituent and Customer Service - 2024 Annual Report

AGENDA ITEM TYPE:

Report

RECOMMENDATION:

Informational item for discussion

BACKGROUND:

As per the Public Transit District Act, the UTA Board of Trustees facilitates hearing and responding to and keeping a log of customer comments through the UTA Customer Service Department. Comments are reported to the Board and the Local Advisory Council annually through the Constituent and Customer Service Report. The report includes an overview of the previous year's constituent comments and statistics.

DISCUSSION:

The attached report summarizes the 2024 customer comments, including quantity, manner received, and subject matter. This data is presented to the agency to ensure customer input is incorporated into UTA processes and service delivery.

ALTERNATIVES:

N/A

FISCAL IMPACT:

N/A

ATTACHMENTS:

2024 Customer Comments Report



CUSTOMER COMMENTS

2024

Exceeding Customer Expectations is fundamental to the mission of the Utah Transit Authority (UTA), We Move You. The degree to which UTA meets and exceeds the expectations of its customer constituents (hereafter called customers) depends on a clear, accurate understanding of those expectations. UTA's customer service professionals significantly aid such understanding through direct communication with customers.

The UTA Customer Service Department is the primary resource for customers to register their questions or concerns. The department invites, monitors, documents, investigates, and resolves feedback from UTA customers throughout UTA's service district.

UTA is responsible by law to provide transit as a public service. Accordingly, any member of the public can reach out to the UTA Customer Service Department and ask questions or provide comments by phone, by email, via the RideUTA.com website, in person at a UTA office, or by mailing a letter.

UTA defines **customer comment** as an experience, observation, or suggestion conveyed by a customer to UTA in relation to its services. Customer Service staff enter all pertinent information obtained through submitted comments or in-person customer interactions, including customer names and contact information, into a software program. UTA adheres to internal policies and rules that protect customer privacy and safeguard any customer information collected.

For every comment submitted, staff conduct an internal investigation for cause or consideration. The goal of this process is to resolve concerns and exceed customer expectations. UTA also uses the customer comment data to support decision-making across UTA, including operations, fares, safety and security, planning, analytics and reporting, communications, and accountability.

UTA policy requires that all customer comments be processed within 7 days of receipt. Throughout 2024, the Utah Transit Authority's average turnaround time for this process was 5 days.

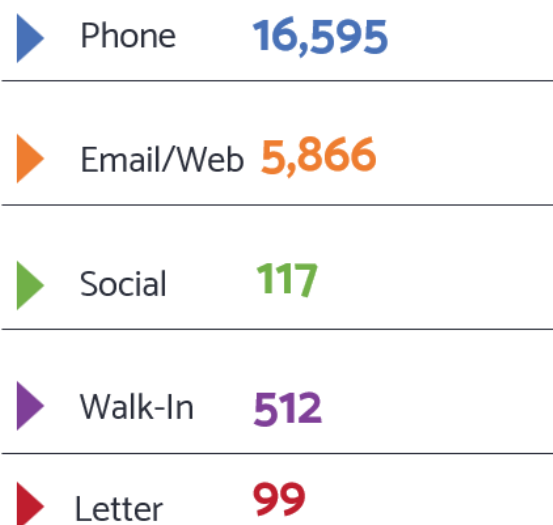
The total number of comments received in 2024 was 23,189.

Customer Comments by Source

Figure 1: Number of Customers

Comments in 2024 by Source

Figure 1 illustrates the distribution of customer comments by the source of those comments.



Comment Categorization

Figure 2: Incident Categories in 2024

Figure 2 shows the first level of categorization of feedback into six overall groups of customer comments UTA received during 2024:

Rider Experience: Situations that may arise while a customer is using public transportation

- **Administration:** Comments about UTA policy, fare payments, or pilot programs
- **Facility:** UTA property, including vehicles, buildings, transit stations, or stops
- **Paratransit:** Services provided to customers with qualifying accessibility needs
- **Service Design:** Planning and design of services, including frequency and coverage
- **Published Information:** Communication provided to the public digitally, on paper, or through wayfinding signage

▶ Rider Experience **12,767**

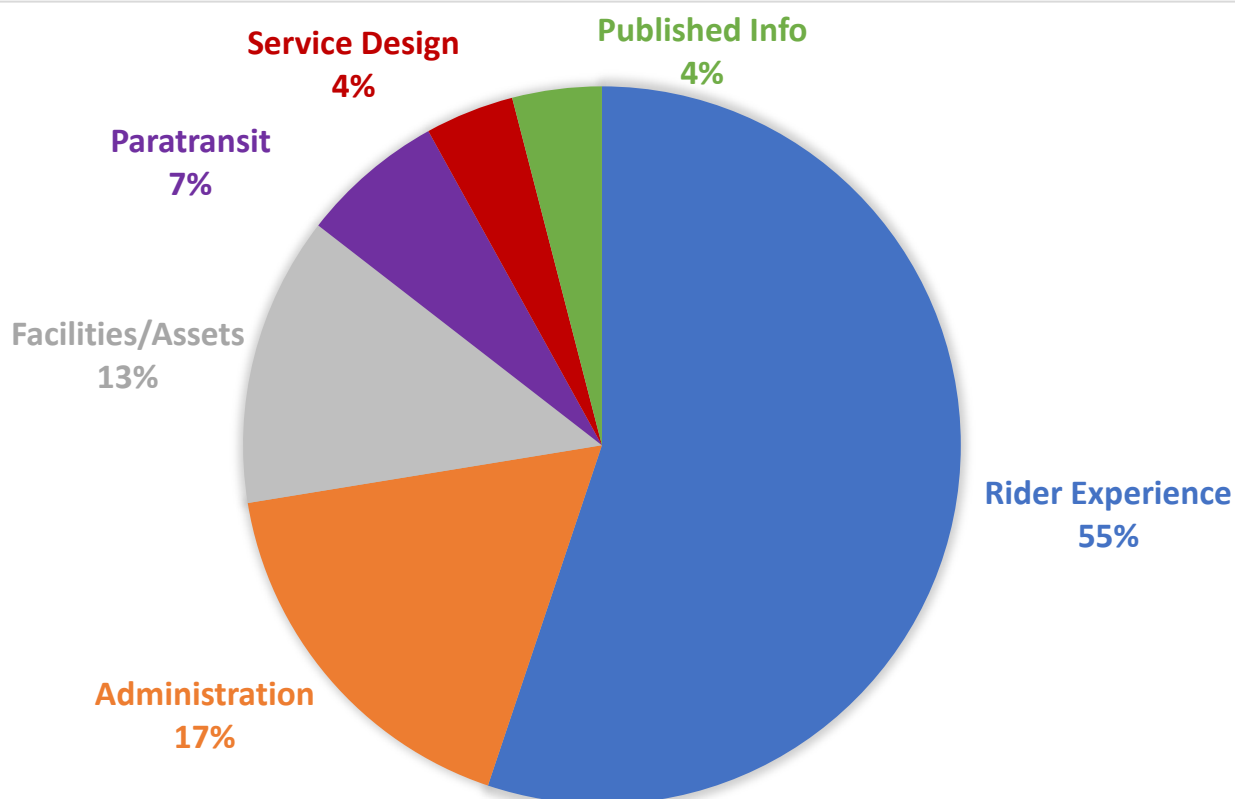
▶ Administration **4,001**

▶ Facilities/Assets **3,025**

▶ Paratransit **1,499**

▶ Service Design **928**

▶ Published Info **932**



Top 5 Comments Overall From Customers

Figure 3 provides another view of customer comments broken down by type of customer experience.

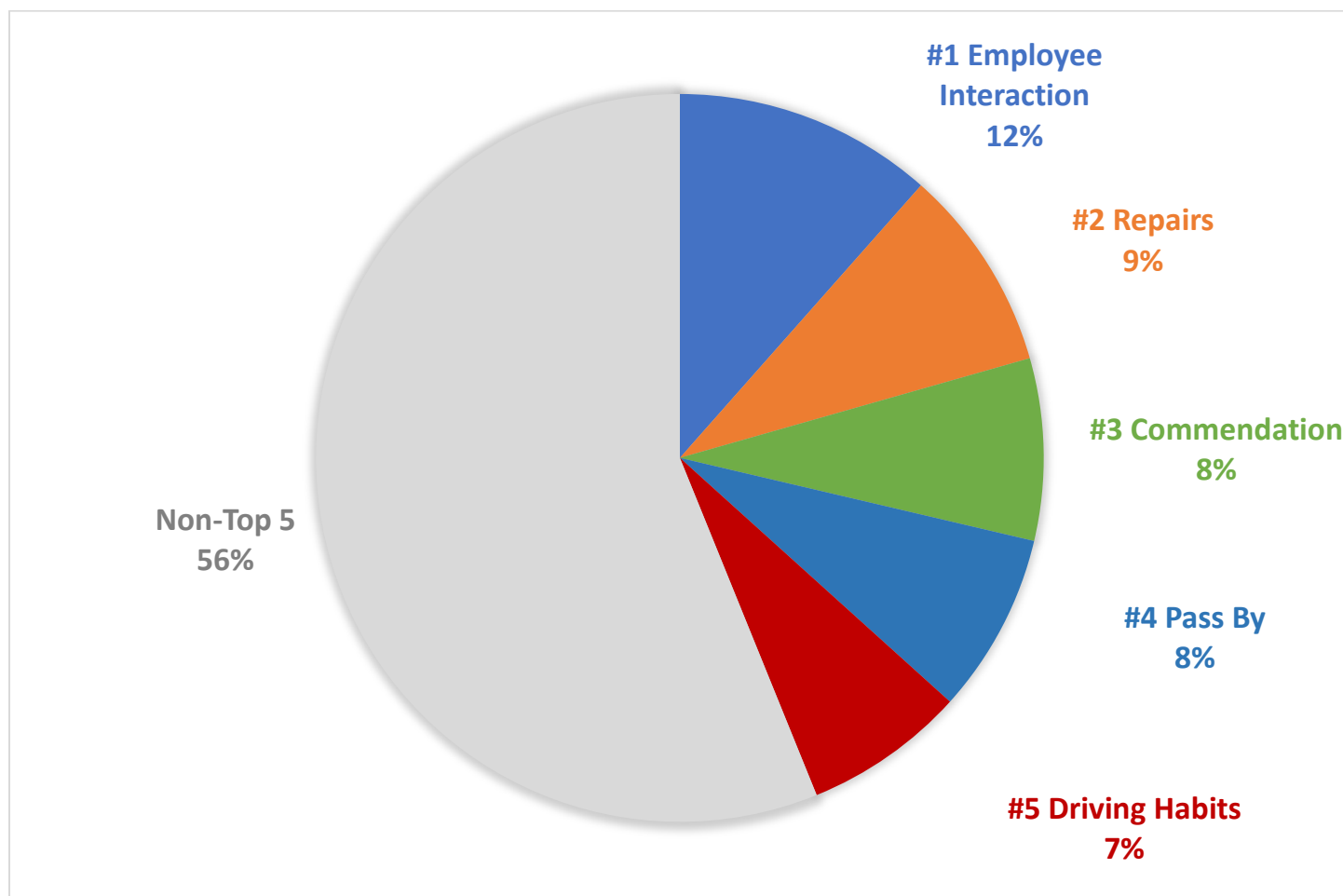
Figure 3: Top Five Comment Types 2024

During 2024, the most frequent customer experiences comments focused on various customer interactions with UTA. The next 3 show less common but similar numbers of comments about pass-by complaints (unconfirmed), repairs, and commendations from customers. UTA driving habits are the fifth most common type of feedback UTA receives.

Below are definitions for each of these customers experience sub-categories:

- **Employee Interactions:** Comment regarding interactions between UTA employees and the customer
- **Pass-By:** Customer feels that they were in a location where the operator should have stopped or waited to pick them up
- **Repairs:** Reports of damage, vandalism, or garbage
- **Commendation:** Employee interaction was appreciated by the customer
- **Driving Habits:** Observations of an employee's driving skills

Employee Interaction	2,674
Repairs	2,099
Commendation	1,875
Pass By	1,859
Driving Habits	1,665



Examples of Resolved Customer Comments

The sample comments below express some concerns or questions about UTA's performance. Each comment received diligent follow-up by Customer Service staff to investigate and resolve the issue.

Employee Interaction:

- The customer states that he was on the F94 waiting for the driver to leave, and when he noticed the driver not leaving on time, he mentioned it to the driver. The customer states the driver was very impolite in his response.
- The customer stated that the driver of the 640 must be having a bad day or something. The customer's wife was walking to the bus and the driver started taking off. The customer had to yell at the driver to stop so she could get on. The driver yelled, "She needs to hurry up, I am late!"

Repairs:

- Customer Report: The customer stated that the ticket vending machine (TVM) at Ogden Station does not accept cards. They mentioned that they had been waiting for help for a long time and were unable to get a ticket, causing them to miss the FrontRunner.
- The customer had \$20.00 and was trying to buy a ticket at Millcreek Station. However, the ticket vending machine (TVM) only accepts cards and does not dispense cash. The customer also mentioned that the TVM is broken.
- "I took Trax on the Blue line from Crescent View Station to downtown SLC. When looking at my receipt, the location description indicated 'Crescent View - Draper' Two errors occur here. 1) The name is spelled Crescent and 2) the location is in Sandy and NOT Draper. There should be enough spacing on the line to make these changes and get it correct. Thank you...."

Commendations:

- Customer states that she boarded bus 220 at 700 S / 1300 E and disembarked at 200 S / 300 E. Customer states that the driver got out of his seat, went down the stairs, and offered his elbow to her so she could safely get off the curb and into the bus. When she was getting off the bus, he did the same thing to help her off the bus and up the curb. The customer states that she does not like getting off at 200 S / 300 E because it is not ADA-friendly (she walks with a cane) but this driver went out of his way to make her feel safe and cared about! Above and beyond! He made my day.
- "Major props to the gentlemen who has been driving the 5:57 pm at Amazon. The driver has only missed one transfer in all the time he is driven, and that was due to a semi-rollover on I-80. The fellow that drives the 5:57 pm to Amazon should be given a raise! He should be a trainer! He should be your boss, and he makes it look easy!"

Pass By:

- "I am standing at 4800 S. State Street waiting on the bus that was due at 19:04 and it passed me right by and now I am going to be late for my second job."
- The customer called in to report that the operator of Route 612 heading NB from Stop ID 629242 did not service the stop. He stated that he was sitting at the shelter, and he saw the bus coming so he started to walk to the sign. He stated that the operator saw him with 2 bags but ignored him.

Driving Habits:

- The customer stated he got on a bus that was traveling on 1300 E at 100 S at about 12:30 heading NB. The bus was only halfway out of the lane, had he had his hazard lights on. He stated he decided to get around the bus

and so he passed him. The operator began honking at him and he thought he had hit him. When he realized he had not, he did not get out of his car. The operator kept honking at him and he was not sure why. He then realized he was mad at him for going around him. He feels he could have done things differently. He felt going around him was not an issue and he should not have been honking at him. Right after he passed him, that is when he began honking at him. The customer did not get a vehicle #.

- “This driver was driving the 1 line at 0630 today on bus 23102. She is a terrible driver. She does not stay stopped long enough for a single passenger to take their seat. She is constantly honking at other cars and drives extremely aggressively. She often comes to a stop so abruptly that she overshoots the actual bus stop. I hate getting on the bus when she drives, it is an awful way to get to work. I have never had these issues with other drivers on the 1 line.”

Conclusion: The UTA Customer Service Department plays a crucial role in helping UTA exceed customer expectations by handling over 23,000 comments in 2024. The department’s commitment to timely response and resolution ensures that UTA maintains high standards of service. By categorizing feedback, addressing complaints, and recognizing commendations, UTA continues to improve and adapt its services to meet the needs of its constituents. Through ongoing efforts to resolve issues and recognize outstanding customer service, UTA remains focused on its mission of We Move You.



U T A

Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
THROUGH: Jay Fox, Executive Director
FROM: Jay Fox, Executive Director
PRESENTER(S): Carlton Christensen, Chair of Board of Trustees

TITLE:

Strategy Session to Discuss Collective Bargaining and the Purchase, Exchange, or Lease of Real Property

AGENDA ITEM TYPE:

Closed Session

RECOMMENDATION:

Approve moving to closed session for discussion of collective bargaining and the purchase, exchange, or lease of Real Property.

BACKGROUND:

Utah Open and Public Meetings Act allows for the Board of Trustees to meet in a session closed to the public for various specific purposes.

DISCUSSION:

The purpose for this closed session is:

- Strategy Session to discuss collective bargaining.
- The Purchase, Exchange, or Lease of Real Property



Utah Transit Authority

MEETING MEMO

669 West 200 South
Salt Lake City, UT 84101

Board of Trustees

Date: 2/12/2025

TO: Board of Trustees
THROUGH: Jay Fox, Executive Director
FROM: Dave Hancock, Chief Capital Services Officer
PRESENTER(S): Paul Drake, Director of Real Estate and TOC

TITLE:

R2025-02-01 - Resolution Authorizing Additional Capital Contribution of Funds in the Jordan Valley Transit Oriented Development

AGENDA ITEM TYPE:

Resolution

RECOMMENDATION:

Approve Resolution R2025-02-01 to authorize the Executive Director to sign the Consent Letter with Bangerter Station LLC and to disburse amounts up to \$1,285,039.74 as an additional capital contribution, per the terms of the Bangerter Station LLC operating agreement. The total value of the transaction is \$1,700,000.00, which includes, as explained below, prior capital contributions by UTA.

BACKGROUND:

The Utah Public Transit District Act requires the Board of UTA to approve any expense in excess of \$200,000.00, as well as provide oversight of Transit Oriented Development projects. Further, Board Policy 5.2 requires that the Board approve real estate and real estate related transactions with a value in excess of \$1,000,000.00 via a resolution.

UTA is a 50% partner with Bangerter Station Associates, LLC in a joint venture (Bangerter Station LLC) establishing a TOD at the Jordan Valley TRAX Station. To fund infrastructure for the project, the joint venture obtained loans secured by the vacant land. Several phases of development have been successfully completed. Individual parcels are removed from the land loan when they are developed. Costs associated with the loan and vacant land are the obligation of the joint venture. However, due to market conditions, lease-up of the latest phase of development has been slower than projected, straining joint venture cashflows. UTA's partner, Bangerter Station Associates, LLC, has provided payment for costs associated with the land loan and vacant

land but has asked UTA to share those costs.

DISCUSSION:

A letter of agreement has been drafted to address costs associated with the vacant property. The letter commits UTA to cover joint venture costs associated with the vacant land through the end of 2025, up to \$1,700,000.00. Afterward, Bangerter Station Associates, LLC, will cover the costs through 2026, up to \$1,700,000.00. UTA has made previous capital contributions in the amount of \$414,960.26 which are considered part of UTA's \$1,700,000.00 obligation. The associated requisition of \$1,285,039.74 reflects additional capital contribution amount needed. Each contribution will be handled according to the terms of the Bangerter Station LLC operating agreement.

ALTERNATIVES:

Failure to make the proposed payment would incur remedies from the lender, including increase in interest rate. Failure to make interest payments would cause the loan to default and the vacant land to revert to lender.

FISCAL IMPACT:

Funds for the anticipated costs are available in the approved 2025 Capital Budget Project MSP263, \$2,388,000.00. Budget availability after obligating funds according to this resolution and previous encumbrances is \$1,097,960.00. Payment retains UTA's value in the vacant land. Additional capital contributions earn 5.5% preferred return.

ATTACHMENTS:

Resolution

Consent Letter (Contract # 25-P00428)

Operating Agreement

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE UTAH TRANSIT AUTHORITY
AUTHORIZING ADDITIONAL CAPITAL CONTRIBUTION OF FUNDS
IN THE JORDAN VALLEY TRANSIT ORIENTED DEVELOPMENT**

R2025-02-01

February 12, 2025

WHEREAS, the Utah Transit Authority (the “Authority”) is a large public transit district organized under the laws of the State of Utah and created to transact and exercise all of the powers in the Utah Limited Purpose Local Government Entities – Special Districts Act and the Utah Public Transit District Act (the “Act”); and

WHEREAS, under the Act, the Board of Trustees (“Board”) is charged with overseeing the development of Transit Oriented Development projects by the Authority, including the TOD known as Jordan Valley (“Project”); and

WHEREAS, the Act further requires the Board of the Authority to approve expenses in excess of \$200,000; and

WHEREAS, the Authority is a member of the joint venture entity Bangerter Station, LLC (“Company”) with its partner Bangerter Station Associates, LLC; and

WHEREAS, the Company owns certain land secured by loans, requiring the payment of interest and finance costs (“Loans”); and

WHEREAS, the Board finds that it is in the best interests of the Authority to service the Loans through making additional capital contributions to the Company pursuant to the Consent Agreement attached hereto as Exhibit A; and

WHEREAS, Board Policy 5.2 requires that the Board approve real property transactions valued over one million dollars by Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Board:

1. That the Board hereby approves the Authority making additional capital contributions in Jordan Valley TOD as described in the Consent Agreement attached hereto as Exhibit A.
2. That the Executive Director is authorized to execute said Agreement and take any action necessary to effectuate this Resolution.
3. That the Board hereby ratifies any and all actions previously taken by the Authority’s management, staff, and counsel in this matter.
4. That the corporate seal shall be affixed hereto.

R2025-02-01

Approved and adopted on this 12th day of February, 2025.

Carlton Christensen, Chair
Board of Trustees

ATTEST:

Secretary of the Authority

(Corporate Seal)

Approved As To Form:

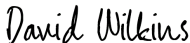
Signed by:

CA25CE8F60E344B...
Legal Counsel

Exhibit A

Consent Agreement

December 27, 2024

Utah Transit Authority
669 W. 200 S.
Salt Lake City, UT 84101
Attn: Paul Drake

RE: Bangerter Station, LLC

Paul:

As you are aware, Bangerter Station Associates, LLC, a Utah limited liability company ("Associates"), and Utah Transit Authority, a large public transit district organized under the Utah Public Transit District Act ("UTA"), are the Members of Bangerter Station, LLC, a Utah limited liability company (the "Company"), upon and subject to the provisions and conditions of that certain Operating Agreement of Bangerter Station, LLC, dated December 15, 2010, as amended (the "Operating Agreement"). Associates and UTA each hold a fifty percent (50%) membership interest in the Company. Unless otherwise defined herein, capitalized terms will have the same definition as set forth in the Operating Agreement.

As a follow up to our recent discussions, we have summarized the status of the existing loans encumbering certain property owned by the Company's subsidiaries and each party's obligations with respect to such loans on a going forward basis.

1. Existing Loans

a. JVSH Loan

The Company is the sole member of Jordan Valley Station Holdings, II, LLC, a Delaware limited liability company ("JVSH"). JVSH owns that certain vacant land measuring approximately 12.37 acres located in Salt Lake County, Utah (Tax ID: 27-05-228-022, 27-05-228-021, 27-05-228-020, 27-05-203-029, 27-05-203-030, 27-05-203-031, 27-05-229-004 and 27-05-284-001) (the "JVSH Property").

Pursuant to the provisions and conditions of that certain Promissory Note, dated July 6, 2021, as amended (the "JVSH Note"), University First Federal Credit Union ("University First") previously made a loan to JVSH in the original principal amount of \$10,000,000.00 (the "JVSH Loan"). The JVSH Loan is secured by that certain Deed of Trust, dated July 6, 2021, made by JVSH, as trustor, in favor of University First, as beneficiary ("JVSH Deed of Trust"), which encumbers the Property.

b. JVSIX Loan

The Company is the sole member of Jordan Valley Station IX, LLC, a Delaware limited liability company ("JVSIX"). JVSIX owns that certain vacant land measuring approximately 2.91 acres located in Salt Lake County, Utah (Tax ID: 27-05-230-002) (the "JVSIX Property").

JVSIX successfully refinanced the JVSIX Property with a loan made by University First in the original principal amount of \$2,705,965.00 (the "JVSIX Loan"). The JVSIX Loan is evidenced by that certain Promissory Note, dated August 30, 2024, made by JVSIX in favor of University First (the "JVSIX Note"). The JVSIX Loan is secured by that certain Deed of Trust, dated August 30, 2024, made by JVSIX, as trustor, in favor of University First, as beneficiary ("JVSIX Deed of Trust"), which encumbers the JVSIX Property.

Pursuant to the JVSIX Note, JVSIX is required to deposit \$250,000.00 (the "Deposit") with University First within ninety (90) days after the closing of the JVSIX Loan. The JVSIX Notes states that the monthly payments due under the JVSIX Note will be paid from the Deposit until such time that the JVSIX Loan is paid in full or the full amount of the Deposit has been depleted to zero dollars.

UTA has made Additional Capital Contributions towards these Existing Loans the amount of \$414,960.26 (\$250,000.00 towards the University First Interest Reserve; \$140,493.83 towards the Miller Bates extension, appraisal, and property taxes; and \$24,466.43 towards the November 2024 interest payment) (collectively, "UTA Loan Service").

2. UTA Additional Capital Contribution

Notwithstanding the provisions and conditions of the Operating Agreement, UTA shall contribute to the Company the following amounts (collectively, the "UTA Additional Capital Contribution") which shall not exceed the aggregate sum of \$1,700,000 (to include the UTA Loan Service amount of \$414,960.26): (a) all interest payments, and extension payments due under the JVSH Note for the period commencing upon the joint execution of this letter and continuing until December 31, 2025, (b) all interest payments and extension payments due under the JVSIX Note for the period commencing upon the joint execution of this letter and continuing until December 31, 2025, (c) the Deposit, (d) all out-of-pocket costs and expenses associated with the refinancing of the JVSH Loan or the JVSIX Loan incurred at any time during the period commencing upon the joint execution of this letter and continuing until December 31, 2025, (e) all property taxes and assessments payable with respect to the JVSH Property or the JVSIX Property for the period commencing upon the joint execution of this letter and continuing until December 31, 2025, and (f) all insurance premiums payable with respect to the JVSH Property or the JVSIX Property for the period commencing upon the joint execution of this letter and continuing until December 31, 2025.

UTA shall have the right to fund the UTA Additional Capital Contribution to the Company in one or more separate contributions; provided, however, UTA shall in all instances fund the applicable portion of the UTA Additional Capital Contribution on or prior to a date two (2) business days prior to the date such interest payment, extension payment, deposit, property tax or assessment payment and/or insurance premium is due. For all purposes under the Operating Agreement, the UTA Additional Capital Contribution shall be treated as a Capital Contribution to the Company.

The UTA Additional Capital Contribution shall be subject to the UTA Preferred Return in accordance with the provisions and conditions of the Operating Agreement. The UTA Preferred Return shall accrue on each dollar of the UTA Additional Capital Contribution from the date such dollar is funded by the Company: to JVSH or JVSIX for the payment of any of the following: (a)

to JVSH for the payment of interest payments or extension payments due under the JVSH Note, (b) to JVSIX for the payment of interest payments or extension payments due under the JVSIX Note, (c) to JVSIX for the payment of the Deposit pursuant to the JVSIX Note, (d) to JVSH for the payment of property taxes and/or assessments payable with respect to the JVSH Property, (e) to JVSIX for the payment of property taxes and/or assessments payable with respect to the JVSIX Property, (f) to JVSH for the payment of insurance premiums payable with respect to the JVSH Property, (g) to JVSIX for the payment of insurance premiums payable with respect to the JVSIX Property, or (h) any payment of out-of-pocket costs and expenses associated with the refinancing of the JVSH Loan or the JVSIX Loan.

Notwithstanding the provisions and conditions of the Operating Agreement, the UTA Additional Capital Contribution shall constitute Unreturned Capital Contributions for purposes of the distribution of Net Cash Flow and Net Proceeds of Major Capital Events pursuant to the provisions and conditions of Section 8.1(c) of the Operating Agreement; provided, however, the UTA Additional Capital Contribution shall not be subject to the UTA Accelerated Capital Return pursuant to the provisions and conditions of Section 8.1(c) of the Operating Agreement.

In the event that UTA's membership interest is acquired by another party, UTA shall be relieved of any obligation under this Section 2 to make any further UTA Additional Capital Contribution.

3. Associates Additional Capital Contribution

Notwithstanding the provisions and conditions of the Operating Agreement, Associates shall contribute to the Company the following amounts (collectively, the "Associates Additional Capital Contribution") which shall not exceed the aggregate sum of \$1,700,000 : (a) all interest payments and extension payments due under the JVSH Note for the period commencing on January 1, 2026 and continuing until December 31, 2026, (b) all interest payments and extension payments due under the JVSIX Note for the period commencing on January 1, 2026 and continuing until December 31, 2026, (c) all out-of-pocket costs and expenses associated with the refinancing of the JVSH Loan or the JVSIX Loan incurred at any time during the period commencing on January 1, 2026 and continuing until December 31, 2026, (d) all property taxes and assessments payable with respect to the JVSH Property or the JVSIX Property for the period commencing on January 1, 2026 and continuing until December 31, 2026, and (e) all insurance premiums payable with respect to the JVSH Property or the JVSIX Property for the period commencing on January 1, 2026 and continuing until December 31, 2026.

Associates shall have the right to fund the Associates Additional Capital Contribution to the Company in one or more separate contributions; provided, however, Associates shall in all instances fund the applicable portion of the Associates Additional Capital Contribution on or prior to a date two (2) business days prior to the date such interest payment, extension payment, property tax or assessment payment and/or insurance premium is due. For all purposes under the Operating Agreement, the Associates Additional Capital Contribution shall be treated as a Capital Contribution to the Company.

The Associates Additional Capital Contribution shall be subject to the Associates Preferred Return in accordance with the provisions and conditions of the Operating Agreement. The Associates Preferred Return shall accrue on each dollar of the Associates Additional Capital Contribution

from the date such dollar is funded by the Company: to JVSH or JVSIX for the payment of any of the following: (a) to JVSH for the payment of interest payments or extension payments due under the JVSH Note, (b) to JVSIX for the payment of interest payments or extension payments due under the JVSIX Note, (c) to JVSH for the payment of property taxes and/or assessments payable with respect to the JVSH Property, (d) to JVSIX for the payment of property taxes and/or assessments payable with respect to the JVSIX Property, (e) to JVSH for the payment of insurance premiums payable with respect to the JVSH Property, (f) to JVSIX for the payment of insurance premiums payable with respect to the JVSIX Property, or (g) any payment of out-of-pocket costs and expenses associated with the refinancing of the JVSH Loan or the JVSIX Loan.

In the event that UTA's membership interest is acquired by another party, Associates shall be relieved of any obligation under this Section 3 to make any Associates Additional Capital Contribution.

4. Approval

In accordance with the provisions and conditions of Section 5.2 of the Operating Agreement, (a) UTA and Associates, in its capacity as the Manager of the Company, hereby approve of UTA making the UTA Additional Capital Contribution, and (b) UTA and Associates, in its capacity as the Manager of the Company, hereby approve of Associates making the Associates Additional Capital Contribution.

Associates and UTA acknowledge and agree that this letter shall not be deemed to modify or amend the Operating Agreement in any way. The Operating Agreement remains in full force and effect.

[The remainder of this page intentionally left blank]

Please confirm your agreement to the foregoing terms and conditions by signing where indicated below.

Sincerely,

Bangerter Station Associates, LLC,
a Utah limited liability company

By:


Jeffrey M. Vitek, Managing Member

Acknowledged and Agreed:

Utah Transit Authority, a public transit district
organized under the Utah Public Transit District
Act

Date: December 26, 2024

By: _____

Name: _____

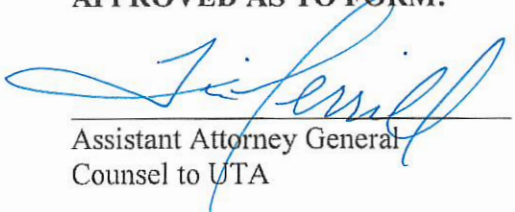
Its: _____

By: _____

Name: _____

Its: _____

APPROVED AS TO FORM:


Assistant Attorney General
Counsel to UTA

OPERATING AGREEMENT

OF

**BANGERTER STATION, LLC,
a Utah limited liability company**

Dated as of December ___, 2010

NEITHER THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE REGULATORY AUTHORITY NOR THE REGULATORY AUTHORITY OF ANY OTHER COUNTRY HAS APPROVED OR DISAPPROVED THIS OPERATING AGREEMENT OR THE MEMBERSHIP INTERESTS ("INTERESTS") PROVIDED FOR HEREIN. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

THE INTERESTS HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933 (THE "SECURITIES ACT"), NOR UNDER THE SECURITIES LAWS OF ANY OTHER COUNTRY, AND THE LIMITED LIABILITY COMPANY IS UNDER NO OBLIGATION TO REGISTER THE INTERESTS UNDER THE SECURITIES ACT OR ANY OTHER SUCH LAWS IN THE FUTURE.

AN INTEREST MAY NOT BE SOLD, PLEDGED, HYPOTHECATED OR OTHERWISE TRANSFERRED WITHIN THE UNITED STATES OR TO A "U.S. PERSON", WITHIN THE MEANING OF REGULATION S UNDER THE SECURITIES ACT, IN THE ABSENCE OF AN EFFECTIVE REGISTRATION UNDER THE SECURITIES ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE MANAGER OF THE LIMITED LIABILITY COMPANY THAT SUCH REGISTRATION IS NOT REQUIRED. HEDGING TRANSACTIONS INVOLVING AN INTEREST MAY NOT BE CONDUCTED UNLESS IN COMPLIANCE WITH THE SECURITIES ACT. ADDITIONAL RESTRICTIONS ON THE TRANSFER OF INTERESTS ARE CONTAINED IN ARTICLE XII OF THIS AGREEMENT. BASED UPON THE FOREGOING, EACH ACQUIROR OF AN INTEREST MUST BE PREPARED TO BEAR THE ECONOMIC RISK OF INVESTMENT THEREIN FOR AN INDEFINITE PERIOD OF TIME.

OPERATING AGREEMENT
OF
BANGERTER STATION, LLC
a Utah limited liability company

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**OPERATING AGREEMENT
OF
BANGERTER STATION, LLC
a Utah limited liability company**

THIS OPERATING AGREEMENT is made and entered into as of the ____ day of December, 2010, by and among UTAH TRANSIT AUTHORITY ("UTA"), a transit district organized under the Public Transit District Act (the "Act"), contained in Title 17B of laws of the State of Utah, and BANGERTER STATION ASSOCIATES, LLC, a Utah limited liability company ("Associates"), as the Members of BANGERTER STATION, LLC, a Utah limited liability company (the "Company").

ARTICLE I

DEFINITIONS

Definitions. The following terms used in this Operating Agreement shall have the following meanings (unless otherwise expressly provided herein):

(a) "Additional Member" means any Person admitted to the Company with all the rights of a Member pursuant to Article XI of this Operating Agreement.

(b) "Additional Member Preferred Return" means an amount that provides, or amounts that together in the aggregate would provide, each Additional Member with a non-cumulative annual return of five percent (5.0%), on all of its Unreturned Capital Contributions, provided that if the Initial Members agree to the same, the said percentage return on the Unreturned Capital Contributions may be at a higher percentage rate, if necessary to attract the investment by the Additional Members (the "Adjusted Return Rate").

(c) "Adjusted Return Rate" has the meaning ascribed to that term in the definition of "Additional Member Preferred Return."

(d) "Affiliate" means, when used with reference to a specific Person, any other Person directly or indirectly controlling, controlled by or under common control with, such Person. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlling", "controlled by" and "under common control with"), as applied with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management policies of such Person whether through the ownership of voting securities or by contract or otherwise, provided (but without limiting the foregoing) that no pledge of voting securities of any Person without the current right to exercise voting rights with respect thereto shall by itself be deemed to constitute control over such Person.

(e) “Associates Preferred Return” means an amount that provides, or amounts that together in the aggregate would provide, Associates with a non-cumulative annual return of five percent (5%) on all of its Unreturned Capital Contributions at the dollar value ascribed to the same pursuant to the terms of this Operating Agreement. Notwithstanding the foregoing, in the event that UTA elects to modify the UTA Preferred Return as provided in the definition of “UTA Preferred Return,” the percentage set forth in this definition may be, at the sole and absolute discretion of Associates, modified to be the equivalent of the modified UTA Preferred Return, with such Adjusted Return Rate being applicable to all or any portion of the entire Unreturned Capital Contributions of Associates from the date of such change.

(f) “Capital Account” shall have the meaning set forth in Article VI of this Operating Agreement, as further elaborated in the Capital Accounting and Tax Addendum.

(g) “Capital Accounting and Tax Addendum” means the Capital Accounting and Tax Addendum that is attached to this Operating Agreement and fully incorporated herein by this reference and other multiple references throughout this Operating Agreement.

(h) “Capital Contributions” means, with respect to any Member, the total of all capital contributions, whether in cash or in-kind (to include contributed real or personal property and, with respect to Associates only, services and/or work performed with respect to the Project), made by such Member (including, as to the Initial Members, their Initial Capital Contributions and, as to Associates, its Capitalized Development Fee), as provided by and consistent with the terms of this Operating Agreement, including the consent and agreement of the Initial Members with respect to the admission of Additional Members and their associated capital contributions. Capital Contributions constitute what UTA and Associates have agreed to be the basic invested equity interest of each Member and, with respect to any Preferred Return or actual return of Capital Contributions (as provided in Article VIII hereof) shall not necessarily be the equivalent of the Member’s Capital Account balance at any given point in time.

(i) “Capitalized Development Fee” is the component of the Development Fee that is described as such in the definition for the term “Development Fee.”

(j) “Company” means Bangerter Station, LLC, a Utah limited liability company.

(k) “Contribution Agreement (Phased)” means the agreement of UTA as set forth in Section 3.2 hereof with respect to the Development Property, providing for a firm commitment by UTA to convey unencumbered fee simple absolute title to the Development Property to the Company on the phased basis provided in Section 3.2.

(l) “Corridor” shall mean any railroad right-of-way owned or operated by UTA, and located along the urbanized area of Utah’s “Wasatch Front,” including any platforms serving the Corridor.

(m) “Declaration” has the meaning set forth in Section 3.2 (d).

(n) “Deferred Development Fee” is the component of the Development Fee that is described as such in the definition for the term “Development Fee.”

(o) “Development Agreement” has the meaning set forth in subsection 3.2 c. of this Operating Agreement.

(p) “Development Budget” means the agreed general pro-forma budget for the development, improvement and build-out of the Development Property consistent with the provisions of Article III hereof and the Development Plan.

(q) “Development Costs” means any and all costs and expenses incurred by or on behalf of the Company for the planning, zoning, development, construction, improvement, management, leasing and build-out of the Development Property, including without limitation: (i) travel expenses (including, but not limited to, travel expenses to and from the Development Property and to and from any office established at the Development Property or in conjunction with the planning and development of the Development Property and actual travel expenses to attend any meetings and visits to the Development Property, so long as such costs are commercially reasonable and any(provided that the expense-per-person for transportation shall, in no event exceed the cost of round-trip business class air travel by commercial fare for the principal of the Manager only and coach air line fare for any other person, including such expenses incurred with respect to the marketing, development, construction and management of the Development Property, (ii) outside consultant expenses, (iii) costs and expenses incurred to obtain entitlements, public financing and/or other necessary or desirable governmental and other assistance and approvals for the Development Property; (iv) any and all costs and expenses incurred by Manager in performing its obligations under Section 9.3 of this Operating Agreement; (v) costs and)expenses of architects and engineers, (vi) costs and expenses of a project manager, superintendent, marketing director and staff, provided that if such employee is not exclusively working on the Development Property, said costs shall be equitably allocated in the exercise of reasonable business judgment, for the Development Property, and (vii) costs and expenses associated with any dedicated employee working exclusively on the Development Property, consistent with the provisions of Article III hereof and the Development Plan, for the purposes and items detailed and projected in the Development Budget or an operating budget. Development Costs shall also include the reasonable costs and expenses incurred by the “Master Developer” (as that term is defined in the Development Agreement) in carrying out its obligations, if any, as the Developer under the Development Agreement to assist or carry out any portion of the development of the Retained Property (or any portions thereof), provided that the same are also detailed, estimated and outlined in the Development Budget. Notwithstanding the foregoing, Development Costs shall not include costs incurred for general corporate overhead of Associates.

(r) “Development Cost Certification” means the monthly certified statement of Development Costs prepared by the Manager and submitted to UTA, providing a certification of the Development Costs incurred through the date of such certification, showing on a line-item basis (consistent with the line-items in the Development Budget) all Development Costs incurred since the last such certification. The monthly statement shall show (1) the current incurred Development Costs for each Development Budget line-item during the month, (2) the cumulative Development Costs for each Development Budget line-item and (3) the Development Cost Budget for each such line-item. Absent manifest error and unless adjusted pursuant to either the annual reconciliation process or the audit process described in this subsection of Article I, the Development Cost Certification shall be the basis upon which the aggregate Development Costs are established for purposes of the Development Fee calculations. Manager shall be responsible for maintaining in an organized and readily accessible manner, all underlying and back-up invoices, evidences of payment and similar evidence of Development Costs for which Development Cost Certifications have been given, organizing the same on a month-by-month basis. After the close of each calendar year during the pendency of this Operating Agreement, Manager will, at the written request of UTA (given on or before March 1 of each calendar year), cooperate with representatives of UTA in a review and reconciliation examination of the said books, records and information to confirm the accuracy of the Development Cost Certifications from the preceding calendar year. Further, once in each calendar year during the pendency of this Operating Agreement, UTA may, at its sole option, cause an independent review and audit of the Development Cost Certifications upon not less than 10 business days’ prior written notice of its intention to conduct any such audit and Manager shall reasonably cooperate with such audit and provide additional information as reasonably requested. The audit shall be conducted during normal business hours in such a manner so as not to disrupt Manager’s business operations and shall be performed by an independent qualified accountant of UTA’s choice experienced in auditing development costs; provided, however, such accountant may not be retained or paid on the basis of a contingency fee based on adjustments to Development Costs. Based upon the results of the said independent audit, adjustments will be made to the Development Costs, the Development Fee calculations and, as necessary, cash distributions or other matters dependent upon the calculation of the Development Costs shall be adjusted to conform to the corrected Development Costs for the subject period. In the event that the adjustments to the Development Costs resulting from such audit result in an adjustment reducing Development Costs for the audited period by more than 5%, the cost and expense of the subject audit shall be the sole responsibility of the Manager. In all other cases, the cost and expense of the subject audit shall be the sole responsibility of UTA.

(s) “Development Fee” means a fee payable by the Company to Associates which is equivalent to nine percent (9.0%) of the total Development Costs with such fee accruing as and to the extent Development Costs are incurred. One half (1/2) of the Development Fee (together with applicable interest as set forth in Section 9.11) shall be treated as a third-party expense of development and shall be paid to Associates as provided in Article VIII and Article IX of this Operating Agreement (the “Deferred Development Fee”). The other one half (1/2) of the Development Fee shall be accrued on the books of the Company as a fee payable to Associates on a monthly basis which

Associates hereby elects to convert to equity contributions to the Company by Associates beyond its Initial Capital Contribution and shall be treated as additional Capital Contributions of Associates as accrued on a monthly basis (the "Capitalized Development Fee"). Specifically, the Development Fee shall be calculated and accrued on the last day of each calendar month commencing on the date of execution of this Agreement, and ultimately reconciled to and be based upon the Development Cost Certification provided by Associates (as Manager) to the Company and the Members, including UTA.

(t) "Development Plan" means the plan for development, build-out and improvement of the Development Property as a TOD consistent in all material respects with the Preliminary Development Plan proposed by the Manager of Associates and approved by UTA as provided in Section 9.3 d hereof.

(u) "Development Property" has the meaning set forth in Section 3.2 of this Operating Agreement.

(v) "Development Property Total Value" has the meaning set forth in the definition of Statutory Contribution Requirement.

(w) "Entity" means any general partnership, limited partnership, limited liability company, limited liability partnership, for-profit corporation, non-profit corporation, joint venture, trust, business trust, estate, cooperative association or other entity.

(x) "Family" means spouse and descendants, including adopted persons of any generation and descendants of adopted persons of any generation, as well as blood descendants, the estate of any of them, or a trustee of an *inter vivos* trust or custodian for the benefit of any of them.

(y) "Financial Insolvency" of a Person means:

(i) the making of an assignment for the benefit of creditors by such Person;

(ii) the filing of a voluntary petition in bankruptcy by such Person;

(iii) the adjudication of such Person as bankrupt or insolvent;

(iv) the filing by such Person of a petition or answer seeking for such Person any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation;

(v) the filing of an answer or other pleading by such Person admitting or failing to contest the material allegations of a petition filed against such Person in any proceeding described in subsection (iv) above;

(vi) the seeking, consent to, or acquiescence in by such Person of the appointment of a trustee, receiver or liquidator of such Person or of all or any substantial part of such Person's properties;

(vii) the failure of any proceeding against such Person seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation to be dismissed within one hundred twenty (120) days after its commencement; or the failure of any appointment, made without such Person's consent or acquiescence, of a trustee, receiver or liquidator of such Person or of all or any substantial part of such Person's properties to be vacated or stayed within ninety (90) days after such appointment, or the failure of any such appointment to be vacated within ninety (90) days after the expiration of any such stay; or

(viii) the imposition of a charging order against the interest of such Person.

(z) "Fiscal Year" means the Company's fiscal and taxable year.

(aa) "FTA" means the Federal Transit Administration.

(bb) "FTA Oversight" has the meaning ascribed to that term in Section 3.2(d).

(cc) "IRC" means the Internal Revenue Code of 1986, as amended, and all references to specific sections thereof shall include any amended or successor provisions thereto.

(dd) "Incompetency" of an individual Person means a determination of such individual's incompetency, whether for insanity, age, disability or other reason. For this purpose, such determination shall be made by a duly licensed physician chosen by the Manager. If the competency of an individual Manager is questioned, the Members (not including said Manager if he/she is also a Member) may select the determining physician. If such individual disputes such declaration, he may choose a second physician, and said two physicians shall choose a third physician, and the decision of the majority of said physicians as to the competency of such individual shall be binding on all parties. Each party shall bear the cost of the physician chosen by it and the parties shall split the cost of the third physician.

(ee) "Infrastructure" means any right, title or interest in and to roads, roadways, public parking facilities (public parking lots and/or the Parking Structures), utility improvements (including, but not limited to lines, pipes, cables, conduits, and associated equipment and devices) and any other improvements commonly classified as "infrastructure improvements" made on, over or under the Retained Property (including those improvements required by the "Pioneering Agreement" (currently being negotiated between the City of West Jordan and Associates), to include but not be limited to any use rights, license rights, easement rights, lease rights or other interests in and to the same.

(ff) “Infrastructure Completion Adjustments” shall mean adjustments hereafter made to the UTA Initial Preferred Return Base (a) in the amount of \$4,750,000 upon the substantial completion of the construction of the first of two Parking Structures, as such term is defined herein, together with other site improvements associated with the first Parking Structure pursuant to the Scope of Work and (b) in an additional amount to be determined upon substantial completion of the construction of the second Parking Structure, together with associated other site improvements associated with the second Parking Structure pursuant to the Scope of Work.

(gg) “Initial Capital Contributions” are the amounts designated and agreed dollar amounts ascribed to contributions made by the Initial Members in the amounts and upon the schedule and timing provided in section 5.1 hereof and in **Schedule One**. In all events, notwithstanding the phased title transfers provided for the Development Property under Section 3.2 and the Contribution Agreement (Phased), the parties acknowledge and agree that the Development Property shall be deemed to have been made available to the Company by UTA pursuant to the agreement and commitments set forth in the Contribution Agreement (Phased) and, accordingly, the Initial Capital Contribution of UTA (and, as of the date of execution of this Agreement, the Unreturned Capital Contribution of UTA) shall be in the amount specified in **Schedule One**. However, for purposes of the calculation of the UTA Preferred Return and the distribution of the same as provided in Section 8.1 b. below, the UTA Preferred Return shall be calculated based upon the assumption that the Unreturned Capital Contribution of UTA is \$7,000,000.00 (the “UTA Initial Preferred Return Base”), provided that the said sum is hereafter subject to the Infrastructure Completion Adjustments. As to Additional Members, “Initial Capital Contributions” are the initial contributions agreed to by and between the Manager and such Additional Members in connection with the approval of such Additional Members hereunder.

(hh) “Initial Members” are Associates and UTA and each is an “Initial Member.”

(ii) “Liquidation” means the liquidation of the Company or the liquidation of a Member’s interest in the Company, as the context may require, and has the meaning set forth in Regulations Section 1.704-1(b)(2)(ii)(g).

(jj) “Major Capital Event” means any borrowing or financing secured by the Development Property as collateral, any sale of all or a portion of the Property or any Company assets (except dispositions of personal property and equipment in the ordinary course of business), or the proceeds from any insured casualty loss, condemnation or other involuntary conversion (including losses covered by title insurance).

(kk) “Majority in Interest” refers to Members whose Percentage Interests as defined in subsection 1.1(p) below, as reflected in their aggregate, are in excess of fifty percent (50%) of the total Percentage Interests of all of the Members entitled to participate in a particular action or decision. If a greater Percentage Interests is required, it shall be so specified herein.

(ll) “Management Agreement” shall mean the Property Development and Management Agreement to be negotiated in good faith by and between the Company and Manager allowing Manager to be compensated for all development, leasing, management and asset management services provided to the Company and reflective of the management fees agreed upon in Section 9.11 of this Agreement. ,

(mm) “Manager” means the Person designated as Manager in accordance with the provisions hereof. Bangerter Station Associates, LLC, a Utah limited liability company is hereby designated as “Manager.” UTA agrees that Bangerter Station Associates LLC may be replaced as Manager at any time in its sole discretion by an Affiliate of Bangerter Station Associates, LLC or other entity so long as, in either event, Jeffrey M. Vitek has a substantial ownership interest in such Affiliate or other entity.

(nn) “Member” means each of the parties who executes a counterpart of this Operating Agreement as a Member and each of the parties who may hereafter become Additional or Substituted Members.

(oo) “Net Cash Flow” of the Company shall be determined for each Fiscal Year in accordance with sound, cash basis accounting principles and means (i) all cash receipts of the Company during such period, from whatever source, whether or not taxable, excluding proceeds of a Major Capital Event, plus (ii) any cash that is released during such period from the cash reserves of the Company, referred to in (iv) below, less (iii) all cash expenditures and cash losses of the Company during such period, whether capital or current, tax deductible or nondeductible (including debt service payments but excluding distributions to Members), and less (iv) reasonable additions during such period to Company cash reserves deemed necessary by the Manager in its sole and absolute discretion for working capital, contingent liabilities, debt reserves, capital improvements and replacements, and investments (any such reserve amounts being established in written notice to the Members, with material changes to the reserve amounts also being published to the Members, by written notice).

(pp) “Net Proceeds of Any Major Capital Event” means the gross proceeds received by the Company of any Major Capital Event, less the proceeds thereof used to repay any construction financing or other indebtedness required to be paid in connection with such event and less any fees and costs associated with the transaction in question and any other costs or expenses required to be paid by the Company in connection with such event.

(qq) “Operating Agreement” shall mean this Operating Agreement as originally executed and as amended from time to time in accordance with the terms of this Operating Agreement.

(rr) “Parking Structure” means the two (2) parking structures containing at least 1,152 parking spaces in the aggregate that are part of the Infrastructure to be constructed by UTA on the Retained Property substantially in accordance with the

Preliminary Development Plan defined in Section 9.3d hereof and which are contemplated to be subject to certain use rights and obligations (as further elaborated in this Agreement) appurtenant to the Development Property.

(ss) “Percentage Interest” shall mean: fifty percent (50%) for Associates and fifty percent (50%) for UTA, subject to the adjustment of UTA’s Percentage Interest as hereinafter provided.

(tt) “Person” shall mean any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person where the context so admits.

(uu) “Phase Pro-ration Fraction” has the meaning ascribed to that term in Section 3.2 of this Operating Agreement.

(vv) “Preferred Return” is a collective reference to Additional Member Preferred Return, Associates Preferred Return and UTA Preferred Return.

(ww) “Preliminary Development Plan” has the meaning ascribed to that term in Section 9.3d of this Operating Agreement.

(xx) “Profits” or “Losses” means, for each Fiscal Year or other period, an amount equal to the Company’s taxable income or loss for such year or period, as the case may be, as determined under IRC Section 703(a) (except that for this purpose all items of income, gain, loss or deduction required to be separately stated pursuant to IRC Section 703(a)(1) shall be included in the computation of taxable income or loss, notwithstanding IRC Section 703(a)(2)), with the following adjustments:

(i) any income of the Company that is exempt from federal income tax which would not otherwise be taken into account in computing Profits or Losses shall be added to such taxable income or loss;

(ii) any expenditures of the Company described in IRC Section 705(a)(2)(B), or treated as IRC Section 705(a)(2)(B) expenditures pursuant to Regulations Section 1.704-1(b)(2)(iv)(b), which would not otherwise be taken into account in computing Profits or Losses shall be subtracted from such taxable income or loss; and

(iii) any items of income, gain, loss or deduction which are specially allocated pursuant to Paragraphs C.1(d) and C.2 of the Capital Accounting and Tax Addendum attached hereto shall not be included in the computation of Profits or Losses.

(yy) “Property” has the meaning set forth in Section 3.2 of this Operating Agreement. The Property consists of the Development Property and the Retained Property.

(zz) “Public Transit District Act” means Title 17B, Chapter 2a, Utah Code Annotated of 1953, as amended), and all references to specific sections thereof shall include any amended or successor provisions thereto.

(aaa) “Regulations” refers to the income tax regulations promulgated under the IRC, as amended from time to time (including corresponding revisions of successor regulations).

(bbb) “Retained Property” has the meaning set forth in Section 3.2(a) of this Operating Agreement.

(ccc) “Scope of Work” has the meaning set forth in Section 10.2 of this Operating Agreement.

(ddd) “Safe Harbor” means the method under which the fair market value of a Safe Harbor Partnership Interest is treated as being equal to the liquidation value of that interest, as defined in the Safe Harbor Regulation.

(eee) “Safe Harbor Election” means the election by the Company of the Safe Harbor, as described in the Safe Harbor Regulation and Internal Revenue Service Notice 2005-43, issued on May 19, 2005.

(fff) “Safe Harbor Partnership Interest” means an interest in the Company that is issued to a service provider in connection with services provided to the Company during such time as a Safe Harbor Election is in effect.

(ggg) “Safe Harbor Regulation” means Proposed Treasury Regulations Section 1.83-3(l), issued on May 19, 2005.

(hhh) “Statutory Contribution Requirement” means contributions by Members other than UTA of assets, rights or interests with a value, reasonably agreed to by UTA equal to 25% of the value of the Development Property (being \$7,000,000.00, the “Development Property Total Value”) and, as to each phase of the Development Property, the Statutory Contribution Requirement shall be determined by multiplying the Development Property Total Value by the Phase Pro-ratio Fraction applicable to the specific phase. Notwithstanding the forgoing, the contributions by Members other than UTA may exceed 25% of the Development Property. Compliance with the Statutory Contribution Requirement provided in this Section shall be determined without regard to any legislative amendment to the Statutory Contribution Requirement subsequent to the date hereof.

(iii) “Substituted Member” means any Person admitted to the Company with all the rights of a Member pursuant to Article XI of this Operating Agreement.

(jjj) “TOD” shall mean a “Transit-oriented Development” as that term is defined in the Public Transit District Act.

(kkk) “Transfer” as a verb, means to sell, exchange, assign or otherwise transfer, mortgage, pledge, hypothecate or otherwise encumber property, whether voluntarily or involuntarily, by operation of law, order of any court, contract, gift, will, intestacy, Financial Insolvency, division of property in the context of a divorce or separation proceeding, or otherwise, and as a noun, the act of doing so. Transfer shall include a change in the majority ownership or control of any entity, provided that notwithstanding this provision, a “Transfer” shall not be deemed to have occurred under this circumstance if after such proposed change, (a) the majority ownership or control of the subject entity remains in an affiliate under majority ownership and control legally comparable to that of the original entity, such transfer or change of ownership occurs as the result of a merger or acquisition of the owned or controlled entity, so long as the succeeding entity is an entity under majority ownership and control legally comparable to that of the original entity, or (b) Jeffrey M. Vitek maintains a substantial interest in the ownership of the subject entity.

(lll) “Unreturned Capital Contributions” means, as to each Member, the aggregate of all Capital Contributions of each Member as increased from time-to-time by additional Capital Contributions made by or on behalf of any Member and decreased by distributions to a Member under Article VIII, specifically designated as a payment or return of a Member’s Capital Contributions. The Company shall maintain for each Member a separate account and accounting record of each Member’s Unreturned Capital Contributions.

(mmm)“URLLCA” means the Utah Revised Limited Liability Company Act (Title 48, Chapter 2c, Utah Code Annotated of 1953, as amended), and all references to specific sections thereof shall include any amended or successor provisions thereto.

(nnn) “UTA Exit Event” means any of the events listed in 13.1 (b), (c), (d) or (e) of this Agreement.

(ooo) “UTA Initial Preferred Return Base” has the meaning ascribed to that term in the definition of Initial Capital Contribution.

(ppp) “UTA Preferred Return” means an amount that provides, or amounts that together in the aggregate would provide, UTA with a non-cumulative annual return of five and one-half percent (5.5%) on its Unreturned Capital Contributions at the dollar value ascribed to the same pursuant to the terms of this Operating Agreement (including the dollar value shown for the Property as UTA’s Initial Capital Contribution). Notwithstanding the foregoing, the percentage set forth in this definition may be, at the sole and absolute discretion of UTA, and upon prior notice to Associates, modified to be the equivalent of the highest Adjusted Return Rate made available to any Additional Member of Members, with such Adjusted Return Rate being applicable to all or any portion of the entire Unreturned Capital Contributions of UTA.

ARTICLE II

FORMATION AND NAME; PRINCIPAL OFFICE; TERM

2.1 Formation and Name. The Members have previously formed a limited liability company under the name of Bangerter Station, LLC, by the filing of Articles of Organization pursuant to the provisions of URLLCA Section 48-2c-403 and also subject to and in compliance with the requirements of the applicable provisions of the Public Transit District Act. The Members desire to govern the affairs of the Company by entering into this Operating Agreement.

2.2 Principal Office. The principal office of the Company, at which location the records required to be maintained by URLLCA Section 48-2c-113 shall be kept, is the office of the Manager, initially located at 5850 Avenida Encinas, Carlsbad, CA 92008, Attention: Jeffrey M. Vitek. The Manager may at any time change the principal office of the Company with written notice to UTA.

2.3 Registered Office and Registered Agent. The Company's initial registered office is at 185 South State Street, Suite 800, Salt Lake City, Utah 84111, and the name of its initial registered agent appointed pursuant to the Utah Model Registered Agents Act, Title 16, Chapter 17 of the Utah Code Annotated, as amended, at such address is Robert A. McConnell. The Manager may change the registered office and/or the registered agent from time to time.

2.4 Term of the Company. The term of the Company shall commence on the filing of the Articles of Organization and shall continue for ninety-nine (99) years thereafter unless the URLLCA is amended to allow perpetual existence of limited liability companies, upon which the term of this Company shall be perpetual, unless in either case earlier terminated by law or as hereinafter provided.

ARTICLE III

PURPOSES AND POWERS OF THE COMPANY

3.1 Company Purposes. The Company is organized for any and all lawful purposes for which companies may be organized pursuant to the URLLCA and for the purposes permitted for public transit districts under the Public Transit District Act, including but not limited to the acquisition, ownership, holding for investment, development, construction, management, sale, lease, rent, exchange and all other modes of dealing with all forms of real and personal property, tangible and intangible, in support of and association with a TOD. In this regard, the Members acknowledge and agree that the scope and content of the lawful purposes of the Company shall, at all times, comply with applicable provisions of the URLCCA (or any successor statute or any amendments or modifications to the same) and to the applicable provisions of the Public Transit District Act (or any successor statute or any amendments or modifications to the same).

3.2 Company Powers – Phased Title Transfer of Property. The Company shall have and may exercise all powers necessary to the accomplishment of its purposes without the

necessity of their specific enumeration. Nevertheless, the Members have agreed that the primary and principal business purposes and objectives of the Company are the development of the real property that is described in Exhibit A (attached hereto and incorporated herein by this reference) (the "Property") as a TOD. The Members acknowledge and agree that the portions of the Property other than the "Retained Property" (as that term is hereinafter defined) will be transferred to the Company by UTA. UTA hereby commits and agrees that it will transfer the fee title to the Development Property to the Company in phases, with the acreage contained in each phase and its location consistent with the Development Plan and the timing of such transfer being upon the written request of Associates, in its discretion. UTA agrees that, if requested by Associates and at the cost and expense of the Company, the Company may obtain an ALTA Form B (1970 Amended, amended 10/17/70) Owner's Policy of Title Insurance in form reasonably acceptable to the Company, insuring the Company, as fee owner of the property contributed, with liability in the amount of the applicable Phase Proration Fraction, issued by a title company reasonably acceptable to the Company). Title transfer of each phase shall be simultaneous with any requested transfer of a phase, subject to Associates having met the Statutory Contribution Requirement for that phase; provided, however, compliance with the Statutory Contribution Requirement provided in this Section shall be determined without regard to any legislative amendment to the Statutory Contribution Requirement subsequent to the date hereof. Specifically, Associates acknowledges and agrees that the portions of the Property so transferred and conveyed to the Company, containing a total, over all of the phases contemplated under the contribution agreement, approximately thirty and six-tenths (30.6) acres, are to be developed, built out and used strictly as a TOD (hereinafter the "Development Property") and, in that connection, acknowledges and agrees that the proposed development shall proceed in a manner that will result in improvements and facilities on the Development Property that are consistent and compatible with the provision of access to the public transit facilities that UTA will develop on the Retained Property, all in compliance with the requirements of the Public Transit District Act and any implementing regulations of the same. It is also agreed that the "Phase Pro-ration Fraction" shall mean the fraction (or percentage) derived by dividing the number of acres in any phase of the Development Property by 30.6 acres. UTA acknowledges and agrees that it will reasonably cooperate with such efforts by the Company and will reasonably cooperate with the Company with respect to the Company's development of the Development Property consistent with the TOD requirements, such cooperation to include, without limitation, good faith efforts to minimize any material adverse impact upon the Development Plan (including without limitation any material Development Cost increase) as a consequence of the actions of UTA with respect to the Retained Property. The Members agree that they will each act expeditiously and with good faith to resolve any dispute relating to the covenants of UTA and Associates under this Section 3.2 and to satisfy any applicable subdivision requirements that are a legal condition or prerequisite to the contribution of the Development Property. In this connection, the parties agree that the Development Property shall be, owned, occupied, developed, improved and used subject to the following terms and conditions:

- a. The Members agree that certain portions of the Property (approximately ten and six tenths (10.6) acres) are considered "transit-critical" and will (i) provide public roadways and access that may be dedicated to the City of West Jordan as part of the overall development and subdivision of the Property, (ii) include a light rail station constructed in a manner generally consistent with other UTA light rail stations, and (iii) include Parking Structures that under agreements acceptable to UTA in the exercise of its

reasonable business judgment, consistent with the public transit access needs and goals of UTA, that provide access to the general public using or accessing the improvements and facilities on the Development Property and the TRAX station) subject to the terms of this Operating Agreement (the "Retained Property"). Consistent with the requirements of the Public Transit District Act and this Operating Agreement, UTA will develop and improve the Retained Property in a manner generally consistent with UTA's public transit facilities and improvements (including, the Parking Structures, roadways, and light rail or other public transit stations or stops). Associates agrees that, with respect to the Retained Property, the title and ownership thereof shall be retained by UTA and the development, improvement, ultimate possession, use and control of the Retained Property shall be retained by UTA subject to commitments and agreements with respect to the Retained Property that are specifically set forth in the terms of this Operating Agreement. Attached hereto and incorporated herein by this reference as **Exhibit B** is an initial draft "conceptual site plan" for the Property with the Retained Property identified by cross-hatching. Both UTA and Associates agree that portions of the Retained Property that are designated on the attached conceptual site plan as public roadways may be, at the appropriate time and consistent with the provisions of the "Development Agreement" (as that term is hereinafter defined) dedicated to the City of West Jordan for public use. Except with respect to any development, improvement or use of the Corridor or with respect to matters relating to the development, improvement, construction, design, operation or use of the TRAX station of UTA on the Retained Property that is the subject of federal, state or local legal requirements or UTA operational mandates, the final development plan of UTA for the Retained Property (and any material changes thereto) shall be subject to the written approval of Associates prior to the commencement of work of development, improvement or construction of the same by UTA and shall be consistent with other TRAX stations and corridors developed and operated by UTA. Any such approval of Associates shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, any work of development, construction or improvement on the Retained Property that is generally necessary to any reasonable version of a development plan for the Retained Property may be undertaken prior to the approval of Associates.

b. In addition and notwithstanding the cooperative development contemplated hereby, Associates acknowledges and agrees that, except for the specific limited purposes stated in this subsection b. hereafter, the Retained Property and the estate, rights or interests of UTA therein may not and shall not be subjected to any mortgage lien or otherwise subordinated to or encumbered by any interest that is superior in right or priority to the estate, rights or interests of UTA therein. Both UTA and Associates hereby agree and covenant that the development of the Property, including the Retained Property, is intended to be done on a coordinated and integrated basis to create improvements and a development that are compatible with the transit components that are contemplated by and operated by UTA. In that regard UTA acknowledges and agrees that the Retained Property will be subject to encumbrances such as , covenants, conditions, restrictions, access or easement agreements, licenses and other instruments that impact title to the Retained Property, but not monetary liens or financing encumbrances so long as the same are (i) reasonably acceptable to UTA and Associates;

(ii) reasonable and necessary for the development of the Property consistent with the TOD objectives set forth in this Operating Agreement; and (iii) consistent with FTA continuing control requirements and not violative of any law, rule, regulation, condition or requirement applicable to UTA's development, improvement, occupancy and use of the Retained Property as transit-critical property (including the terms, conditions and restrictions accompanying or applicable to any grant monies or other funds used for the said transit-critical purposes) and the requirements of this Operating Agreement. In addition, and notwithstanding the foregoing, UTA agrees that to the extent UTA receives a credit to its capital account for any portion of the Infrastructure that is contributed to or otherwise provided to the Company for use in connection with the Development Property, as hereinafter expressly provided, subject to the prior written approval and consent of UTA (which shall not be unreasonably withheld, conditioned or delayed) and consistent with applicable contractual and lawful restrictions applicable to the same the Company shall have the right to pledge, encumber or otherwise cause its right, title and interest in such Infrastructure to be treated or otherwise provided as collateral for any loan or other financing for the benefit of the Development Property.

c. In addition, it is acknowledged that Associates and UTA have been in extensive discussions and negotiations with the City of West Jordan with respect to the Property and its development with the purposes specified hereinabove and that such discussions and negotiations have been aimed at the creation of a development agreement that will further guide and facilitate the development of the Property consistent with the purposes outlined herein (the "Development Agreement"). As a result of such efforts, an initial draft of the Development Agreement for the Property has been created and it is hereby agreed that, upon the creation of the Company and the execution of this Operating Agreement, the Company shall proceed in the place of Associates as the "Master Developer" under the Development Agreement, with the continued cooperation and support of UTA, including as required by the City of West Jordan, UTA being a party to the Development Agreement solely by reason of its ownership of the Retained Property and by reason of the transit-oriented nature of the entire development. The Members agree and acknowledge that, in all events, the terms, provisions and conditions of the Development Agreement must be in compliance with the requirements of the Public Transit District Act and, in that regard, must maintain and retain its character as a TOD.

d. Neither party shall further encumber any parcel of the Development Property intended to be conveyed to the Company, prior to conveyance, except that the parties shall act in good faith to create covenants, conditions and restrictions, which shall be recorded with the Salt Lake County Recorder's office (the "Declaration"). The Declaration shall include covenants, terms and provisions that maintain the character of the Development Property consistent with the requirements of this Operating Agreement, the Public Transit District Act, the TOD concept and which otherwise govern and control the development and use of the Development Property as a TOD and which will act to preserve and protect the intended development and use goals of the parties. Such Declaration shall encumber the Development Property to be conveyed to the Company.

3.3 Relation to Manager General Powers. Other than as specifically prescribed in the foregoing two sections of this Article III and in other portions of this Operating Agreement and except as the same may be limited by the applicable provisions of the Public Transit District Act, nothing herein shall be an infringement on, derogation of or other reduction of the general and ordinary powers of the Manager under this Operating Agreement and the URLLCA to manage and run the day-to-day operations and business of the Company as more fully hereinafter provided. The Manager shall have and may exercise all powers necessary to the accomplishment of its purposes without the necessity of their specific enumeration herein.

ARTICLE IV

TAX AND ACCOUNTING MATTERS

4.1 Characterization as a Partnership. It is the intent of the Members that the Company be classified as a partnership for federal and state income tax purposes. Accordingly, this Operating Agreement is written and shall be construed in a manner consistent with such intent and the Manager shall take no action inconsistent with such intent.

4.2 Fiscal Year. The Fiscal Year of the Company shall end on the last day of December of each year.

4.3 Accounting Method. The Company books of account shall be maintained and its income, gains, losses, deductions and credits shall be reported, for both financial and tax accounting purposes, on the accrual basis method of accounting, applied consistently and in accordance with sound accrual basis accounting principles. The Manager may at any time change the financial and tax accounting method of the Company, subject to any applicable limitation of law or regulation.

4.4 Tax Information. As soon as reasonably practicable after the end of the Company Fiscal Year and consistent with the requirements of applicable federal income tax law, the Manager shall cause each Member to be furnished with a Schedule K-1 for such year and any other schedule or statement required by federal income tax law.

4.5 Tax Elections. The Manager in its discretion may make any and all tax elections available to the Company, including without limitation the election provided for in IRC Section 754. Further, the Members agree that, in the event the Safe Harbor Regulation is finalized, the Company shall be authorized and directed to make the Safe Harbor Election and the Company and each Member (including any Member to whom an interest in the Company is issued in connection with the performance of services) agrees to comply with all requirements of the Safe Harbor with respect to all interests in the Company issued in connection with the performance of services during such time as a Safe Harbor Election is in effect. In the event the Safe Harbor Regulation is finalized, the Tax Matters Partner shall be authorized to and shall prepare, execute and file the Safe Harbor Election.

4.6 Tax Matters Partner. The Manager shall be the Tax Matters Partner of the Company as such term is defined in IRC Section 6231(a)(7). The Tax Matters Partner, in its sole

discretion, may unilaterally extend any filing deadline for federal or state income tax purposes in accordance with applicable federal and state tax laws.

ARTICLE V

CAPITAL STRUCTURE; CAPITAL CONTRIBUTIONS PERCENTAGE INTERESTS IN PROFITS; LOANS

5.1 Initial Capital Contributions – Pre-Organization Venture Expenses. The Initial Members' Initial Capital Contributions, the schedule and manner for the contribution of the same and the resulting capital account balances and initial Percentage Interests are set forth opposite their names in **Schedule One**, attached hereto and made a part hereof by this reference. The Initial Members agree to make the Initial Capital Contributions in compliance with and as provided in **Schedule One** and the valuation provided to the Development Property contributed by UTA is as set forth therein. **Schedule One** shall be modified and amended to reflect the Initial Capital Contributions, resulting capital account balances and Percentage Interests for any Additional Members. In all events, the Capital Contributions of Associates and all Additional Members, must ultimately meet the total Statutory Contribution Requirement; provided, however, compliance with the Statutory Contribution Requirement provided in this Section shall be determined without regard to any legislative amendment to the Statutory Contribution Requirement subsequent to the date hereof. As and to the extent that actual Capital Contributions by Associates and any Additional Members are not made upon the execution of this Operating Agreement, there must be binding and effective agreements from Associates and/or other Additional Members evidencing their unconditional commitment to make Capital Contributions that will meet the threshold percentage requirement set forth herein.

5.2 Additional Capital Needs. After the Initial Capital Contributions, no Member shall be obligated to make any additional contributions to the Company capital or loans to the Company without such Member's consent. However, Members may make additional capital contributions or loans to the Company with the approval of the Manager and UTA. Further, in the event the Company has insufficient capital for its needs, it may raise additional capital by borrowing from Members or third parties on such commercially reasonable terms and conditions as the Manager and such Member or third party lender are able to agree upon, and/or by issuing additional equity interests in the Company to Members or third parties on such reasonable terms and conditions as the Manager, in its discretion shall deem advisable, subject however to the advance consent and agreement of UTA and any subsequently admitted Additional Member, such consent not to be unreasonably withheld, conditioned or delayed. Associates and UTA acknowledge and agree that any and all loans to the Company shall be entirely without any recourse whatsoever to UTA or Associates and nothing herein, express or implied, obligates UTA or Associates to guaranty, become a co-borrower or otherwise lend its assets or credit to or on behalf of the Company in order to or as part of the requirements or conditions of any loan to the Company. Initial Capital Contributions by Additional Members shall dilute the Percentage Interest of UTA only, and in no event shall the Percentage Interest of Associates be diluted as a result of a Capital Contribution by an Additional Member. Calculation of the dilution of the Percentage Interest of UTA shall be based upon the comparison of the agreed dollar value of the Capital Contributions of Additional members to the \$11,750,000.00 Initial Capital Contribution

of UTA shown on **Schedule One**. Associates covenants and agrees that, as contemplated by the Development Plan and this Operating Agreement, it shall use commercially reasonable efforts to locate and secure, sources of additional capital through lending and/or equity contribution sources, all consistent with the terms of this Operating Agreement and as reasonably necessary to achieve the purposes and objectives of the Company as set forth in Article III. Notwithstanding the commitment of UTA to proceed with the development and improvement of the Retained Property in a manner consistent with the purposes of the Company as set forth in Article III, nothing here shall impose upon UTA any obligation to lien, pledge, encumber or otherwise submit the Retained Property to claims as security for any loan obligations of any kind, including but not limited to loan obligations of the Company for the purposes authorized herein. Determination by the Manager of the capital needs of the Company shall be consistent with the Development Budget and with the Development Plan as the same may be modified as provided in this Operating Agreement. Nothing herein is a guaranty or warranty by Manager of the availability of or the ability to obtain financing or funding consistent herewith and no Member shall have any recourse against Associates based upon its inability to obtain such additional financing or funding.

5.3 Return of Capital. No Member shall be entitled to the return of its capital contribution to the Company except as specifically provided in this Operating Agreement.

5.4 Interest on Contributions. No interest shall accrue or be paid on the balance in the Capital Account of any Member.

ARTICLE VI

CAPITAL ACCOUNTS

“Capital Account” means, with respect to each Member, the account established or to be established and maintained by the Company for each Member as herein provided for specific tax and entity accounting purposes. A Capital Account shall be maintained for each Member. In general, a Member’s Capital Account shall be credited in the amount of such Member’s Contributions to Capital and such Member’s allocated share of the Profits of the Company and shall be debited in the amount of any distributions of capital to such Member and such Member’s allocated share of the Losses of the Company, in accordance with IRC Section 704(b) and the Regulations promulgated thereunder, as more particularly set forth in Article VII, the Capital Accounting and Tax Addendum attached hereto and made a part hereof by this reference and otherwise, as specifically set forth in this Operating Agreement.

ARTICLE VII

ALLOCATION OF PROFITS AND LOSSES

7.1 Allocation of Profits. Subject to the special tax allocation rules set forth in the Capital Accounting and Tax Addendum attached hereto and made a part hereof by this reference,

Profits for any Fiscal Year shall be allocated to the Members for both financial and tax accounting and reporting purposes as follows:

(a) First, to those Members to whom Losses were allocated under subsection 7.2(a) below, in the same proportion in which such Losses were allocated, until the aggregate Profits allocated to such Members for the current Fiscal Year and all previous Fiscal Years pursuant to this subsection 7.1(a) is equal to the aggregate Losses allocated to such Members under subsection 7.2(a) below for all previous Fiscal Years;

(b) Second, to each Member, in an amount equal to the Preferred Return actually received by such Member during the Fiscal Year and to the extent not previously allocated during previous years;

(d) Third, to Associates for any amount of Losses allocated pursuant to Section 7.2(b) below; and

(e) Fourth, to the Members in accordance with their Percentage Interests.

7.2 Allocation of Losses. Subject to the special tax allocation rules set forth in the Capital Accounting and Tax Addendum attached hereto and made a part hereof by this reference, Losses for any Fiscal Year shall be allocated to the Members for both financial and tax accounting and reporting purposes as follows:

(a) First, to the Members in the same proportion as under subsection 7.1(d) above until the aggregate Losses allocated to the Members for the current Fiscal Year and all previous Fiscal Years pursuant to this subsection 7.2(a) is equal to the aggregate Profits allocated to the Members under subsection 7.1(c) above for all previous Fiscal Years; and

(b) Then to Associates.

UTA does not in any way warrant, represent or assure the nature of the consequences of the aforesaid allocations of Profits and Losses on the tax obligations and liabilities of Associates or of any other Member. Further, by executing this Agreement, UTA does not, in any way, warrant, represent or otherwise affirm that the allocations of Profits and Losses contained in Sections 7.1 and 7.2 hereof, are consistent with applicable provisions of law (including, but not limited to the IRC). Finally, Associates hereby agrees to indemnify, defend and hold UTA harmless from any direct loss, cost, expense, claim, litigation, damage or cost of involvement, not including any consequential or indirect cost or expense and not to exceed the amount of the allocation of Profits and Losses to Associates pursuant to Article VII hereof, in any way arising out of or otherwise directly related to the terms, provisions and structure of Sections 7.1 and 7.2 as specified above, including but not limited to all costs and expenses reasonably incurred by UTA with respect to any of the foregoing (reasonable attorneys' fees included). The provisions of the foregoing sentence shall be applicable to any situation or circumstance in which UTA becomes involved by reason of the said provisions, regardless of whether there is any claim of legal violation, wrongful conduct or otherwise and shall cover all reasonable costs and expenses

incurred by UTA with respect to the same. In all events, UTA shall have the right to retain independent counsel of its own choosing and the cost of the same (regardless of whether or not Associates has appointed counsel to represent UTA or not) shall be a covered expense.

7.3 Allocations in the Event of Transfer or Liquidation. In the event of the transfer or Liquidation of a Member's entire interest in the Company, such Member's allocable share of Profits, Losses and any specially allocated items pursuant to the Capital Accounting and Tax Addendum attached hereto for the current taxable year of the Company through the date of transfer or Liquidation shall be calculated on the basis of an interim closing of the Company books as of such date, or on the basis of a daily proration through such date of Profits, Losses and any specially allocated items for the entire year, as the Liquidating Member and the Manager may agree.

ARTICLE VIII

NET CASH FLOW; NET PROCEEDS OF ANY MAJOR CAPITAL EVENT AND DISTRIBUTIONS

8.1 Distribution of Net Cash Flow and Net Proceeds of Major Capital Events. The Net Cash Flow and Net Proceeds of Major Capital Events of the Company will be distributed to the Members in accordance with the following described schedule, at appropriate times in the Manager's sole discretion. All amounts distributed to Members pursuant to this Section 8.1 shall be advances of amounts otherwise distributable to the Members under the provisions of this Article VIII. The dollars distributed hereunder shall be applied to the first category that has not been fully funded and satisfied, as set forth below, and no portion of Net Cash Flow or Net Proceeds of Major Capital Events shall be distributed to any subsequent category unless and until the full amount then accrued and payable with respect to the subject category is has been fully paid and funded. The following priority of distributions shall apply with respect to the Initial Members:

- a. First, to pay (i) any and all outstanding and unpaid costs and expenses of the Company for operations, ownership, management, leasing and development of the phases of the Development Property completed or under way, due and payable at the time (including the reimbursement of Development Costs then outstanding and due and payable for the developed phases or phases under development at the time); (ii) any and all indebtedness to third-parties as and to the extent the same is due and payable (including Affiliates of any Member), provided, however, that any such costs and expenses payable to Affiliates of any Member shall meet the requirements of Section 9.9 hereof; (iii) any accrued and unpaid Deferred Development Fee (together with applicable interest charges as set forth in Section 9.11 following), provided that, as set forth in Section 9.11, a minimum dollar amount of \$50,000.00 per month shall be paid to Associates whether or not accrued Deferred Development Fees at the time of such distribution are accrued in an amount sufficient to cover such \$50,000.00 distribution (the amount that such minimum distribution exceeds accrued and unpaid Deferred Development Fee, being accrued and offset against future accruing Deferred Development Fee); and

(v) accrued Deferred Development Fee in excess of the said \$50,000.00 (also together with applicable interest charges as set forth in Section 9.11);

b. Payment to the Members of that portion of the then accrued and unpaid total Preferred Return equal to the Phase Pro-ration Fraction of the same; provided that it is agreed that portion of the accrued Preferred Return that exceeds the Phase Pro-Ration Fraction shall be accrued and will be distributed as part of distributions under this sub-section b. after the time that the subsequent phases of the Development Property are transferred to the Company by UTA;

c. Payment to the Members of (i) the Phase Pro-ration Fraction of their Unreturned Capital Contributions in proportion to their Percentage Interests; (ii) payment to UTA alone until UTA has received an amount equal to 120% of the Phase Pro-ration Fraction of its Unreturned Capital Contribution (the "UTA Accelerated Capital Return"); and (iii) payment to the Members of the Unreturned Capital Contribution on any phase conveyed to the Company pursuant to the Contribution Agreement; and

d. Until such time as an additional phase of the Development Property is transferred to the Company by UTA, any remaining Net Cash Flow 50% to Associates and 50% to Members other than Associates. All accrued but unpaid amounts payable to Members pursuant to Sections 8.1 a through c on all prior phases of the Development Property shall be paid current prior to distributions to the Members pursuant to this Section 8.1 d. The portion of the amounts payable under this subsection d. to Members other than Associates shall be a percentage derived by dividing the Percentage Interest held by each such Member by the total of the Percentage Interests held by such Members other than Associates. For the avoidance of doubt, Associates shall always be entitled to 50% of any remaining Net Cash Flow under this subsection d. regardless of the admission of Additional Members.

With respect to the distribution hurdle found in part (ii) of subsection c. above, UTA acknowledges and agrees that such distributions have the potential of reducing of the total Unreturned Capital Contribution of UTA to zero (0) at a point in time earlier than is the case for any other Member and UTA agrees that when that point has been reached, it will be entitled to no further distributions under distribution hurdle c.

8.2 Special Tax Payment Distributions. In the event that Associates is subject to income tax liability on any of the Capitalized Development Fee in connection with the conversion of the same to Capitalized Development Fee (because the same is "income" for purposes of applicable income tax laws because the profit and loss allocations provided in Article VII are not allowed to offset all of the income for Associates arising from such Capitalized Development Fee), then there shall be a special distribution made to Associates in the amount that is necessary to pay the income tax liability payable as a result of the inclusion of Capitalized Development Fee in the income of Associates, provided that a distribution in the same amount shall also be made to UTA. These special distributions shall be treated as prepayment of the Unreturned Capital Contributions of UTA and Associates and shall reduce the

obligation to pay Unreturned Capital Contributions under 8.1 c. above, such reduction being applied in reverse order of the distribution obligation with respect to the same (meaning that the same shall be applied against the Unreturned Capital Contributions for the last phases of the Development Property).

8.3 Distributions Upon Termination. Notwithstanding the foregoing, liquidating distributions in the event of Liquidation of the Company shall be made in accordance with the Members' respective final positive Capital Account balances, as set forth in Section 14.3 below.

ARTICLE IX

RIGHTS AND DUTIES OF THE MANAGER

9.1 Management. As provided in the Articles of Organization, the management of the Company shall be vested in a single Manager. Associates is, by the agreement of the Initial Members, designated as the Manager of the Company (the "Manager"). Subject to the provisions of Section 9.3, the Manager shall direct, manage and control the business of the Company and shall have full and complete authority, power and discretion to make any and all decisions and to do any and all things which the Manager shall deem to be reasonably required in light of the Company's business and objectives, without the necessity of their specific enumeration herein. Except as provided in Section 9.3 and elsewhere in this Operating Agreement, the other Members of the Company shall have no right or authority to act for or on behalf of the Company and shall not interfere or participate in the management of the Company except as expressly provided herein. Except as otherwise expressly provided in this Operating Agreement, Manager, acting in good faith on behalf of the Company and in furtherance of the business of the Company, shall have the power and authority to perform all acts that the Company is authorized to perform and Manager shall make all decisions affecting the business of the Company, and shall manage and control the affairs of the Company. Nothing contained herein shall prohibit or limit in any way whatsoever the right of Manager to hire or engage any third party to assist Manager in the performance of its duties hereunder. Persons dealing with the Company may rely upon the authority of Manager that it has the authority to make any commitment or undertaking on behalf of the Company. No person dealing with Manager shall be required to ascertain its authority to make any such commitment or undertaking, or any other fact or circumstance bearing upon the existence of its authority. In no event shall any person dealing with Manager, with respect to any of the Company assets, be obligated to see to the application of any purchase money, rent, or money borrowed or advanced thereon, or be obligated to see that the terms of this Operating Agreement have been complied with, or be obligated to inquire into the necessity or expediency of any act or action of Manager, and every contract, agreement, deed, mortgage, lease, promissory note, or other instrument or document executed by Manager on behalf of the Company, with respect to any of the Company's assets, shall be conclusive evidence in favor of any and every person relying thereon or claiming thereunder that (a) at the time or times of the execution and/or delivery thereof, the Company was in full force and effect, (b) such instrument or document was duly executed and authorized and is binding upon the Company and all of the Members, and (c) Manager was duly authorized

and empowered to execute and deliver any and every such instrument or document for and on behalf of the Company.

9.2 Tenure and Succession. Associates (or an Affiliate of Associates in which Jeffrey M. Vitek has a substantial ownership interest) shall serve as the Manager of the Company until resignation, Financial Insolvency or removal (such removal, solely, as provided in Section 9.10 of this Operating Agreement). Any subsequent Manager of the Company shall serve until death (if an individual), resignation, Incompetency (if an individual), Financial Insolvency or removal as provided in Section 9.10 of this Operating Agreement.

9.3 Duties and Powers of the Manager. The Manager shall have all powers necessary to conduct the business of the Company without the need for specifically setting them forth herein. Unless authorized to do so by this Operating Agreement or by the Manager, no Member, agent or employee of the Company shall have any power or authority to bind the Company in any way, to pledge its credit or to render it liable pecuniarily for any purpose. Subject to the terms and conditions of this Operating Agreement, the Manager shall have the responsibility for achieving all of the objectives and purposes of the Company with respect to the Development Property, as more fully described in Article III of this Operating Agreement. Manager shall have the decision-making authority and power necessary for the day-to-day administration and operation of the business and affairs of the Company and the Development Property. In no event shall the Manager or its Affiliates be required to render extraordinary efforts with respect to any of its duties hereunder or under the Management Agreement (to be executed by the parties in good faith), and the Manager and its Affiliates shall not and shall not be deemed to represent, warrant or guarantee that any approvals and permits will be obtained, that financing will be obtained or that the Development Property will be developed. Specifically, the Manager has the authority to and bears the responsibility to use its reasonable and good faith efforts, in light of existing conditions and circumstances to:

- a. obtain funding (loans or additional capital contributions by Additional Members) and monies as reasonably necessary to prosecute the development, improvement, build-out and operation or disposition of the Development Property pursuant to the Development Plan and fund or obtain adequate financing to pay for the incremental costs associated with construction of the portion of the Parking Structures dedicated solely to the Development Property as provided in the Development Plan in an amount not to exceed \$3,800,000.00 and reimburse UTA for such incremental costs no later than December 31, 2011; provided further, however, that Company shall additionally be obligated to pay to UTA an amount equal to five and one-half percent (5.5%) of such amount from and after the date of substantial completion of the Parking Structures until such amounts are paid in full;
- b. obtain all property entitlements (including density allocations consistent with the Development Plan), approvals, zoning changes, subdivision (to include subdivision of the Property into the Development Property and Retained Property preliminary to the contribution of the Development Property by UTA to the Company) or conditional use permits and other governmental consents and approvals as shall be reasonably necessary for the implementation of the

Development Plan with respect to the Development Property. UTA acknowledges and approves the entitlements obtained by the Company, as well as the development plan, densities, impact fees and other matters contained in the Development Agreement with West Jordan City.

c. negotiate and finalize the Development Agreement and take all of the actions to fulfill the duties, responsibilities and obligations of the Company thereunder and to otherwise pursue the rights and benefits available under the Development Agreement with respect to the implementation of the Development Plan;

d. plan and design the improvements for the Development Property as a TOD, to include concept design, architectural drawings and work, detailed and final plans and specifications, in consultation with UTA. UTA hereby acknowledges and agrees to the preliminary plans and specifications ("Preliminary Development Plan") evidenced by the Development Plan;

e. develop and finalize the Development Plan for a mixed used development including approximately 1396 residential units, and otherwise consistent with the Preliminary Development Plan;

f. develop and finalize the annual operating budgets and the Development Budget for the Development Property through completion and build-out, provided that each annual operating budget, the Development Budget and any material deviation to the same shall be subject to the review and approval of UTA, which approval shall not be unreasonably withheld, conditioned or delayed, it being agreed that only expenditures which are in the aggregate in any Fiscal Year, in excess of one hundred fifteen percent (115%) of the aggregate expenses and costs set forth in the then-current budget shall be deemed to be a material deviation;

g. develop and maintain the Development Property as a TOD, consistent in all material respects with the Development Plan;

h. in connection with any fund-raising for the Company, being responsible for compliance with the requirements of all state and federal securities laws with respect to such fund-raising efforts, the Company hereby represents and warrants after review and consultation with its legal counsel that it is not aware of any failure to comply with such requirements; and

i. subject to the limitations set forth in this Section 9.3 below, in consultation and with prior notice to UTA, appoint and contract with leasing agents, real estate agents (for sale or disposition of portions of the Development Property consistent with the Development Plan), engineers, architects, consultants, professionals, contractors, suppliers, property managers, etc., as necessary to the development, improvement, build-out, operation, management, leasing and disposition of the Development Property pursuant to the Development Plan;

Subject to the limitations expressly set forth in this Operating Agreement, any and all of the foregoing powers of Manager as set forth in this Section 9.3 shall be exercised in the good faith determination of Manager, and except as specifically provided hereinabove and elsewhere in this Operating Agreement, the Members shall have no right to approve, veto, or vote on any such decision; provided, however, solely with respect to those situations as expressly required above will obtain approvals from, or consult with UTA, as the case may be, in connection with certain decisions to be made by Manager, and provided, further, it is understood that the consultation requirement expressly provided above is an accommodation only, and the decision in such situations shall be ultimately made by Manager as it determines, in its good faith discretion, in the best interests of the Company .

As to Section 9.3 a. above, in the event that the FTA determines not to approve the costs of improvements on the Retained Property or to exclude a material portion of the costs of Parking Structures from the funds being made available for the development of the Retained Property, or the cost of the portion of the Parking Structures dedicated solely to the use of the TOD property owners, users and invitees materially exceeds the aforesaid \$3,800,000.00, the parties shall consult and negotiate in good faith to reach some accommodation that would preserve the material semblance of the originally intended arrangements with the Parking Structures and the allocation of costs associated with the same.

UTA acknowledges and agrees that Manager does not represent or warrant the success of the Property or any return to UTA. UTA acknowledges that the budget sub-categories set forth in the operating budgets and the development budget are for guidance and informational purposes and may, subject to UTA's reasonable approval right with respect to a material deviation set forth hereinabove, be increased, modified, deleted, supplemented, revised or adjusted in Manager's good faith discretion. UTA understands and agrees that the operating budgets and the development budget, and any revised budget, constitutes Manager's estimate made in good faith of all costs and expenses of the Company and the revenue and expenses of the Property, but that Manager does not warrant or represent that the actual costs and expenses of the Company and the revenue and expenses of the Property will later equal or be more favorable than as set forth in the operating budgets or the development budget, as the case may be, as the same may exist from time to time. No Member shall have any recourse based upon the failure to achieve the levels of revenue and expenses set forth therein

In addition to the consents and approvals required in subsections a., e., and f.. above, without the prior unanimous consent of the Members, the Manager shall not:

- i. do any act in contravention of this Operating Agreement;
- ii. subject to the limitations expressly set forth in this Operating Agreement, do any act that would disqualify or otherwise materially and negatively impair the ability and authority of UTA to participate in the subject TOD venture and development project or would otherwise violate any applicable federal or state laws, statutes or regulations or which would otherwise materially and negatively impact UTA, its sources of funding, authority or operations as a result of actions or omissions that would violate applicable federal, state or local laws and rules;

- iii. possess Company assets or Property or assign the rights of the Company in specific assets or property for other than a Company purpose;
- iv. incur any financing, refinancing or other indebtedness secured by the Development Property or any other assets of the Company, provided however, that the consent of UTA shall not be unreasonably withheld, conditioned or delayed;
- v. acquire additional real property or sell the Development Property (other than the distribution of any cash or property of the Company or the establishment of any reserve as provided in the development budget or the operating budget or as is consistent with the Development Plan), provided that the consent of UTA shall not be unreasonably withheld, conditioned or delayed; or
- vi. confess a judgment against the Company or against the Development Property or any other assets of the Company.

9.4 Liability for Certain Acts. The Manager shall exercise business judgment in managing the business, operations and affairs of the Company. Unless material breach of its obligations under this Operating Agreement that remains uncured after appropriate notice and an opportunity to cure (as provided in this Operating Agreement), fraud, gross negligence or willful misconduct shall be proven by a court order, judgment, decree or decision which has become final, the Manager shall not be liable or obligated to the Company or the Members for any mistake of fact or judgment or for the doing or failure to do of any act in conducting the business, operations and affairs of the Company which causes or results in any loss or damage to the Company or its Members.

9.5 Time Devoted to Company; Conflicts. Consistent with good faith efforts to reasonably meet and achieve the Company's objectives and agreed schedules, the Manager, in its sole and absolute discretion, is free to devote less than full time to the business of the Company and may engage in any other business or activity whatsoever. Neither the Company nor any Member shall have any right, by virtue of this Operating Agreement, to share or participate in such other investments or activities of the Manager or in the income or proceeds derived therefrom.

9.6 Indemnification. The Company shall indemnify any Person who is made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that such Person is or was a Manager, against costs and expenses, including attorneys' fees, judgments, fines and amounts paid in settlement, actually and reasonably incurred by the Manager in connection with the action, suit or proceeding if such Person acted in good faith and in a manner such Person reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe that such Person's conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that such Manager (a) did not act in good faith and in a manner which such Person reasonably believed to be in or not opposed to the best interests of the Company, and (b) with

respect to any criminal action or proceeding, had reasonable cause to believe that such Person's conduct was unlawful.

9.7 Resignation. A Person serving as a Manager may resign at any time by giving written notice to the Members of the Company at least sixty (60) days in advance of the effective date of such resignation. The resignation of a Manager shall take effect upon the date specified in the notice thereof or at such earlier time as shall be agreed by the resigning Manager and the remaining Members of the Company. The Manager and the remaining Members shall reasonably cooperate with each other and any newly appointed Manager to effectuate a full and smooth transition of the responsibilities of Manager and Manager shall turn over to the Company all Company records, data, information, assets and other materials of the Company in a timely and cooperative fashion.

9.8 Compensation. Except for the compensation provided for in Section 9.11 following and any other fees or compensation established by this Operating Agreement or separate contract with the Company, approved by UTA, the Manager shall perform its duties and obligations hereunder without any compensation or remuneration.

9.9 Dealings with Affiliates – No Violation of Conflict of Interest Rules. The Company may enter into business and contractual relationships with Affiliates of the Manager or Members, provided that the terms of such relationships are commercially reasonable, consistent with terms available from non-Affiliates and satisfy arm's length standards. Notwithstanding the foregoing, the Members acknowledge, represent and agree that a condition to UTA's authority to participate in the Company and the TOD development that is contemplated hereby is the complete absence of any benefit, right or interest (separate and apart from the achievement of the objectives of this Operating Agreement consistent with the office, role or contractual involvement of such person) to any officer, employee, or trustee of UTA and, accordingly, the foregoing provision shall not be construed to be or in any way used to take actions or enter into agreements, arrangements or contracts that will result in a violation of this strict and absolute conflict of interest prohibition. In this regard, the Manager agrees to undertake good faith precautions and due diligence in dealings of the Company with any third parties to assure that there is no such conflict of interest prohibition violation.

9.10 Removal. At a meeting called expressly for that purpose, a Manager may be removed at any time "for cause" only, by the affirmative vote of sixty percent (60%) of the Members. For purposes of this Operating Agreement, "for cause" shall mean any act or omission, constituting intentional misconduct, fraud, gross negligence or material breach of this Operating Agreement. With respect to a material breach of the Operating Agreement that gives rise to a removal vote, Manager may only be removed after written notice setting forth with specificity the allegations of such material breach of this Operating Agreement and if the Manager does not provide written notice to the Members (other than Manager if the Manager is a Member), within ten (10) business days of the receipt of the notice of such breach and vote, that the Manager will promptly undertake actions to cure the same within thirty (30) days from the notice of its intention to cure the specified material breach. Notwithstanding the foregoing sentence, if the cure or remedy of the specified material breach cannot be reasonably achieved within the said thirty (30) day period, the removal shall not be effective so long as the Manager is working in good faith and with reasonable diligence to achieve such cure or remedy. In the event Manager desires to contest

the allegations of material breach of this Operating Agreement, fraud, willful misconduct, or gross negligence, Manager shall, within ten (10) business days of receipt of the notice of removal vote, give notice of its intent to contest the same and may, within thirty (30) days after such notice of intent to contest, file a declaratory relief or similar action in a court of competent jurisdiction to determine the issue of whether Manager has committed material breach, fraud, intentional misconduct or gross negligence. Manager and UTA hereby agree in advance to an expedited handling of any such filed proceeding and will reasonably cooperate with each other to cause an expeditious adjudication of the matters at issue. If Manager contests the Company's allegations and Manager shall file such action as referenced above and a determination is made that Manager has committed the alleged material breach, fraud, intentional misconduct or gross negligence, then Manager shall then be removed upon the entry of a final non-appealable order of such court.

9.11 Payment of Fees and Costs. Notwithstanding anything to the contrary expressed or implied in this Agreement, in addition to any reimbursements of Development Costs, as set forth in this Agreement and the Development Budget and/or any annual operating budget, and to the Capitalized Development Fee, Associates shall be entitled to the following fees: (a) a minimum payment against outstanding or future accrued Deferred Development Fee, payable monthly in an amount equal to Fifty Thousand and No/100 Dollars (\$50,000.00) a month; (b) monthly payment of accrued Deferred Development Fee in excess of the immediately preceding \$50,000 minimum; (c) interest accruing on the amounts payable each month under subsections (a) and (b) hereof, at the rate of five percent (5%) per annum simple interest, with such accrual commencing upon the monthly payment date agreed to hereafter by UTA and Associates, and continuing until the said sums are paid; (d) a management fee equal to four percent (4%) of the gross revenues derived from the Development Property (subject to the negotiation and execution of the Management Agreement), excluding Net Proceeds of a Major Capital Event, payable monthly; and (e) an asset management fee equal to one percent (1%) of the Fair Market Value of the developed Development Property placed in service (subject to the negotiation and execution of the Management Agreement), payable annually, and for those portions of the Property wherein Associates serves as the leasing agent, the market standard leasing commission. In addition, in the event that any phase of the Development Property is sold by the Company as an undeveloped parcel to a third party, and Associates serves as the Project's sales agent, Associates shall be entitled to the payment of a transfer fee equal to 5% of the contracted and paid sales price for the subject phase of the Development Property. For purposes of this Agreement, the term "undeveloped parcel" shall mean any phase of the Development Property with respect to which, other than basic entitlement work and connection to the Infrastructure, no other development activity, construction or improvement has been undertaken. The parties agree that a sale of such undeveloped parcel by the Company shall require the agreement of both UTA and Associates and that any such sale shall be expressly subject to the obligation of the purchaser to be subject covenants that will assure that the development of the said parcel is consistent with the applicable laws, including but not limited to federal transit laws, FTA regulations, requirements, conditions and controls and the Public Transit District Act. Before any such sale and transfer, the parties shall have caused the said undeveloped parcel to become subject to all applicable covenants, conditions and restrictions that are required pursuant to this Agreement for the Development Property.

ARTICLE X

RIGHTS AND OBLIGATIONS OF MEMBERS

10.1 Limitation of Liability. Except to the extent provided in the URLLCA, no Member shall be personally liable for any debts, obligations, liabilities or losses of the Company, regardless of the particular nature or source thereof, beyond such Member's capital interest in the Company. No failure to make a Capital Contribution shall create any right in any third party with respect to such failure.

10.2 Specific Obligations of UTA. Subject to the provisions of this Operating Agreement, in addition to other obligations of UTA provided herein, UTA shall, at no cost or expense to the Company or to Associates except as set forth herein, also (a) proceed with the development and improvement of the Retained Property as transit-critical facilities in a manner materially consistent with other UTA transit facilities; and (b) as and to the extent consistent with the transit-critical needs for the same, enter into license, cooperative use or other agreements with respect to the public parking facilities that are constructed as part of the transit-critical facilities, always subject to the terms and conditions of this Agreement; and (c) assist and cooperate with Associates, to effectuate a subdivision of the Property necessary to allow the transfer and contribution of the Development Property on a phased basis to the Company as provided in Section 3.2 of this Agreement; and (d) proceed with the construction of the Infrastructure substantially in accordance with the Scope of Work attached hereto as Exhibit E, subject to the condition that Associates is not in material default of its obligations under Section 9.3 ("Scope of Work"). In addition, UTA agrees, as reasonably necessary, as requested by Associates to participate with the Company and Associates in negotiating, finalizing and executing the Development Agreement. UTA and Associates hereby agree that \$4,750,000.00 of the costs of the development and construction of the Infrastructure is for the mutual benefit of the Development Property and the said \$4,750,000 shall be treated as an additional Capital Contribution of UTA and shall be reflected in the UTA Capital Account and in the Unreturned Capital Contribution account as provided in this Agreement. With respect to the operation and maintenance of the Parking Structures that is to be part of the Infrastructure and with respect to which the Company shall have certain use rights and controls, including without limitation, private access and exclusive use of at least 1157 automobile parking spaces on the ground floor of the Parking Structures and a barricade, gate or chain at such locations previously approved by the Company in order to regulate entry into the portion of the Parking Structures reserved for exclusive use by the Company. The maintenance and operation of the same shall be undertaken and handled by UTA in accordance with a Parking Management Agreement that is reasonably acceptable to UTA and the Company and the Company shall be obligated to pay, as a "use expense" for the same, a pro-rata share (based upon the number of parking spaces exclusively allocated to the Development Property), together with an administration fee of 4% of the amount of such use expense payable by the Company.

10.3 Company Books. The Manager shall maintain and preserve at the Company's principal office, during the term of the Company and for six (6) years thereafter, all accounts, books, and other documents and records, including those required to be maintained by URLLCA Section 48-2c-113. Upon reasonable request, each Member shall have the right, upon ten (10) business days' prior written request for the same and during ordinary business hours, to inspect

and copy such Company documents at the Member's expense. The audit shall be conducted during normal business hours in such a manner so as not to disrupt Manager's business operations and shall be performed by an independent qualified accountant of such Member's choice experienced in auditing the books and records of a real estate limited liability company. A copy of the audit shall be delivered to Manager within thirty (30) days following the completion of such audit.

10.4 Priority and Return of Capital. Except as specifically provided in this Operating Agreement, no Member shall have priority over any other Member, either as to the return of capital contributions or as to distributions; provided that this Section shall not apply to loans (as distinguished from capital contributions) which a Member has made to the Company.

10.5 Withdrawal by a Member. Except as expressly provided in this Operating Agreement, no Member shall have the right under this Operating Agreement to unilaterally withdraw from the Company or to require that his or her interest in the Company be redeemed, in whole or in part.

ARTICLE XI

ADMISSION OF NEW MEMBERS

No Person shall be admitted to the Company as an Additional or Substituted Member without the express, written consent of the Manager and a vote in favor of the same by Members holding at least seventy-five percent (75%) of the Percentage Interests of all Members. The terms and conditions upon which an Additional or Substituted Member is to be admitted shall also be subject to the prior written approval of UTA, provided that such approval shall not be unreasonably withheld, conditioned or delayed. An Additional or Substituted Member shall execute and deliver all documents necessary to reflect such Member's admission to the Company and such Member's agreement to be bound by the terms and conditions of this Operating Agreement. An Additional or Substituted Member shall thereupon be entitled to all of the rights and be subject to all of the duties and liabilities of membership in the Company. This Operating Agreement shall be amended as necessary to conform to the changed conditions of the Company, and the Managers shall file an appropriate amendment to the Articles of Organization of the Company if required by URLLCA Section 48-2c-405 to do so.

ARTICLE XII

TRANSFER OF MEMBER'S INTEREST

12.1 Transferability of Interest. Subject to Section 13.1 below and with the prior written consent of the Initial Members, a Member shall be free to Transfer all or any portion of such Member's interest in the Company at any time to any Person on any terms and conditions, except as follows:

(a) Certain Transfers are subject to the right of first refusal set forth in Section 12.2 below.

(b) Also, no Transfer otherwise permitted hereunder may be made if, in the opinion of counsel for the Company, such Transfer, when added to the total of all other interests in the Company transferred within the period of twelve (12) consecutive months prior to the proposed date of Transfer, would result in the termination of the Company for tax purposes under IRC Section 708, unless such Transfer is specifically consented to by the Manager.

12.2 Right of First Refusal. In the event a Member receives a bona fide written offer to purchase all or any portion of such Member's interest in the Company from a third party which such Member desires to accept, said Member may do so, provided that such Member first offers to sell such Member's interest, or portion thereof, to the Company and the other Members in the manner set forth below on the same terms and conditions as offered by the third party by delivering a copy of said third party offer to the Manager and the other Members (with a cash equivalent value being substituted for any non-cash consideration contained in said third party offer). If the Member proposes to gift all or any portion of such Member's interest in the Company to a person outside such Member's Family, such Member shall give notice of same to the Manager, which notice shall be treated as the equivalent of an offer to sell such interest to the Company for the value and on the terms determined under Sections 13.2 and 13.3 below.

The Manager shall then have sixty (60) days in which to accept said offer in full on behalf of the Company on the terms and conditions set forth in said offer. If the Manager declines to accept said offer, the Manager may assign the offer to those Members who desire to accept it, pro rata in proportion to such Members' Percentage Interests (after excluding the selling Member's Percentage Interest) or as such Members may otherwise agree among themselves, but such assignment shall not extend the sixty (60) day period for acceptance. Acceptance shall be in writing delivered to the transferring Member.

If the Manager and Members decline to accept said offer or otherwise waive their rights hereunder, the transferring Member shall be free to accept the offer of purchase from said third party, provided he does so within thirty (30) days after the earlier of the end of the sixty (60) day period or receipt of such waiver and provided he consummates the sale of his interest, or portion thereof, without any material variation in the terms and conditions stated in said offer within ninety (90) days after receipt of the said waiver. If the thirty (30) day period for acceptance expires or if such Member desires to materially vary any of the terms and conditions of the offer, he must follow the procedure set forth above as if he were receiving a new offer of purchase.

Notwithstanding the foregoing, the following Transfers shall not be subject to the above right of first refusal:

(a) A lifetime or testamentary Transfer, whether by sale or by gift, by any Member of all or any portion of such Member's interest in the Company to or for the benefit of such Member's Family, or trust or other Entity for the benefit of such Family (an "Intrafamily Transfer").

(b) A distribution, termination, merger, consolidation or transfer of substantially all the assets of said Member, or other reorganization of said Member constituting a mere change in the form of doing business or of holding property, provided said Member or the persons formerly in control of said Member own the transferred interest in the Company directly or own the controlling interest in the new or surviving Entity. By “control” is meant in excess of fifty percent (50%) of the voting interests; provided in the case of Jeffrey M. Vitek, he maintains a substantial ownership interest in the new or surviving entity.

12.3 Effect of Transfer; Status of Transferee. The Transfer of any interest in the Company, voluntary or involuntary, permissible or impermissible, if effective at all, shall be effective only to Transfer the transferring Member’s economic rights in such interest and not to Transfer such Member’s voting, management and other rights of ownership with respect to such interest. Accordingly, any transferee of such interest shall have the status of a mere assignee under URLLCA Section 48-2c-1102 and shall not be entitled to become, nor to exercise any of the rights of, a Member in the Company unless and until such transferee is admitted as a Substituted Member in accordance with Article XI above. In any event, the transferee shall be subject to all the obligations of a Member hereunder and the transferring Member shall cease to have any rights at all with respect to the transferred interest.

12.4 Transferring Member’s Capital Account Balance. Subject to Section 7.3 above, that portion of the Capital Account balance of a Member who Transfers all or any portion of such Member’s interest in the Company, as permitted hereunder, which is attributable to such transferred interest, shall carry over to the transferee as set forth in Regulations Section 1.704-1(b)(2)(iv)(l).

12.5 Internal Revenue Service Reporting Requirements. In the event of a sale or exchange of an interest in the Company, the Members shall comply with the reporting requirements of IRC Section 6050K.

12.6 Tag Along Right. Notwithstanding anything to the contrary contained or implied in this Operating Agreement, with respect to any proposed transfer of any portion of the membership interest owned by any Member (such person the “Selling Member”) to a person (a “Tag Transferee”) that is not an Affiliate of the Selling Member (a “Tag Transaction”), any other Member (the “Following Member”) shall have the right (the “Tag-Along Right”) to require that the Selling Member reduce the membership interest being transferred by the Selling Member to accommodate the substitution of a portion of the membership interest of the Following Member for transfer to the Tag Transferee. In this instance, the determination of the membership interest being transferred by the Selling Member and the Following Member to the Tag Transferee shall be made by first, adding to the membership interest of the Selling Member subject of the said transfer pre-assertion of the Tag-Along Right, that portion of the membership interest of the Following Member that bears the same ratio to the total membership interest of the Following Member as the portion of the membership interest of the Selling Member pre-assertion of the Tag-Along Right, bears to the total membership interest of the said Selling Member. The membership interest of each of the Selling Member and the Following Member that is included in the said total shall be then reduced, pro-rata, until the aggregated membership interests of the said Members is equal to the amount of membership interest that was subject of the transfer

proposal pre-assertion of the Tag-Along Right or (b) put its membership interest to the Tag Transferee on the same terms and conditions of the proposed transfer (up to the outstanding membership interest then owned by the Following Member) in the same proportion as the total outstanding membership interest then owned by the Selling Member bears to the membership interest subject to the proposed sale. The Tag-Along Right shall not apply to any Transfer under 12.2 (a) or (b) of this Agreement.

If the Selling Member proposed to transfer any interest in the Company that would constitute a Tag Transaction pursuant to this Section 12.6, then the Selling Member shall notify, or cause to be notified, the Following Member in writing of each such proposed transfer with all of the terms and conditions of the proposed transfer, not less than 60 days prior to that date that such proposed transfer is scheduled to close (the "Tag-Along Notice").

The Tag-Along Right provided for in this Section 12.6 may be exercised by the Following Member by delivery of a written notice to the Selling Member (the "Tag-Along Response") within ten (10) days following delivery of the Tag-Along Notice (the "Tag-Along Period"). After expiration of the Tag-Along Period, if no Tag-Along Response has been given exercising the Tag-Along Right, The Selling Member shall have the right to transfer its interest in the Company to the Tag Transferee on substantially the same terms and conditions as are set forth in the Tag-Along Notice subject to the right of first refusal described in Section 9.2. In the event the Following Member shall elect to exercise its Tag-Along Right and the Tag Transferee shall either refuse to purchase the applicable portions of the Following Member's membership interest or shall attempt to revise, modify or otherwise change the terms upon which the Tag Transferee offered to purchase the Selling Member's membership interest (where such revision, modification or change is in any way detrimental to the Following Member or the price to be paid for its interest in the Company), then unless the Following Member agrees in writing in its sole and absolute discretion to such refusal, revision, modification or change, then the Selling Member shall not be entitled to transfer all or any portion of its membership interest to the Tag Transferee.

12.7 Pledge of a Member's Interest. (a) Except as set forth in this Section 12.7, no Member may pledge, mortgage, hypothecate, assign as security, create a security interest in or charge against or other encumbrance of all or any part of its interest in the Company, whether directly or indirectly, voluntarily or involuntarily or by operation of law.

(b) Each Member (herein, a "Pledging Member") shall have the right to pledge its entire (but not part of its) interest in the Company (the "Pledged Interest") as collateral for any loan being made to the Company, the Pledging Member or its Affiliates by a third party lender for the benefit of the Company and/or the Development Property (the "Pledgee"), provided that the pledge agreement and/or such other instruments which provide for such pledge (collectively, the "Pledge Instruments") expressly provide that:

(i) in the event of any default by the Pledging Member under the Pledge Instruments, the Pledgee shall give the other Members (the "Non-Pledging Member") prompt written notice thereof;

(ii) in the event of a default entitling the Pledgee to exercise its rights against the Pledged Interest, the Pledgee shall give the Non-Pledging Members prior written notice and a reasonable period to cure such default prior to the exercise of such rights;

(iii) in the event of a default and the Pledged Interest is to be foreclosed and sold pursuant to a private sale, the Non-Pledging Member shall be provided with thirty (30) calendar days prior notice of such private sale, and, if the Pledged Interest is to be sold pursuant to a public sale, the Non-Pledging Member shall be provided with the requisite statutory notice of such public sale and, upon any such private or public sale, the Pledged Interest shall be sold with all the rights and restrictions set forth in this Agreement attaching thereto; and

(iv) in the event that the Pledged Interest is foreclosed and the Pledgee or a third party acquires the Pledged Interest, the Non-Pledging Members who are not affiliated with the Pledging Member shall have the right and option to acquire the Pledged Interest for the loan amount in default which option may be exercised by said Non-Pledging Member within thirty (30) calendar days of the date upon which said Pledgee or third party acquires the Pledged Interest, and if said Non-Pledging Members does not elect to exercise said option then (A) the Pledgee or third party may be admitted to the Company but the Pledgee or such third party shall only be entitled to the economic rights in such interest and shall have no right to participate in the management of the Company and the Pledgee's approval shall not be required with respect to any Membership decision other than any decision that would require such Pledgee to make any contributions to the capital of the Company or loans to the Company or that would impose personal liability on the Pledgee; and (B) the Pledgee shall become liable for all of the liabilities and obligations of the Pledging Member and shall cure all outstanding monetary defaults of the Pledging Member and shall be subject to all of the enforcement provisions of this Operating Agreement.

(c) In the event that a Pledging Member desires to consummate any pledge pursuant to this Section 12.7, such Pledging Member (i) shall deliver to the Non-Pledging Member, not later than ten (10) business days prior to the consummation thereof, notice of the Pledging Member's intention to consummate a pledge pursuant to this Section 12.7 (which notice shall identify the Pledgee), and (ii) shall deliver to the Non-Pledging Member, within ten (10) business days following the consummation thereof, a certification from the Pledging Member certifying that such pledge was made subject to and in accordance with the provisions of this Agreement together with copies of the Pledge Instruments executed and delivered by the Pledging Member and the Pledgee (such copies to be certified as true and complete by the Pledging Member).

ARTICLE XIII

BUY-OUT OF MEMBER'S INTEREST

13.1 Buy-Out Upon Certain Events. Upon receiving notice of the occurrence of a Buy-Out Event (defined below), the Company shall have one hundred twenty (120) days in which it may exercise an option to purchase the entire interest in the Company of the Member on whose behalf or with respect to which the Buy-Out Event has occurred (the "Liquidating Member"). If the Company determines not to exercise its option to purchase, the Company may assign the option to those Members who desire to accept it, pro rata in proportion to such Members' Percentage Interests or as such Members may otherwise agree among themselves, but such assignment shall not extend the one hundred twenty (120) day exercise period. The Manager in its sole discretion shall determine whether or not to exercise such option, provided that the failure by the Manager to exercise such option within ninety (90) days of receiving notice of the

occurrence of a Buy-Out Event, shall give rise to the right of any or all of the other Members to exercise the same to the exclusion of the Manager.

A “Buy-Out Event” shall consist of any of the following events or circumstances:

(a) the Financial Insolvency of Associates (Associates being the Liquidating Member in such event);

(b) any revocation of the right or authority of UTA to continue to participate as a member in the Company, whether by subsequent legislation, by reason of a failure of an existing condition or requirement precedent to such participation or by judicial decision or other occurrence making such continued participation unlawful (UTA being the Liquidating Member in such event);

(c) the conclusion by UTA, supported by advice of independent legal counsel to UTA, that continued participation in the Company will result in the loss, forfeiture or other abrogation of material rights, benefits or authority or will materially and negatively effect the business or operations of UTA (to include any strategic growth, expansion or development plans) (UTA being the Liquidating Member in such event); or

(d) the breach by a Member (including the Manager) of any material term or provision of this Operating Agreement, which breach remains uncured after reasonable notice and an opportunity to cure (the breaching Member being the Liquidating Member in such event); or

(e) a voluntary or involuntary Transfer of all or any portion of a Member’s (including Associates, as Manager) interest if such Transfer is not specifically permitted by this Operating Agreement (the breaching Member being the Liquidating Member in such event).

Exercise of said option by the Company or, as applicable, the other Member or Members, shall be made by giving written notice thereof to the Liquidating Member or the personal representative, trustee or other successor-in-interest of the Liquidating Member, effective as of the date of notice of such election. Valuation of the interest in the Company of the Liquidating Member shall then take place pursuant to Section 13.2 below and payment for such interest shall take place pursuant to Section 13.3 below.

13.2 Valuation of Liquidating Member’s Interest. The interest in the Company of a Liquidating Member shall be valued as follows:

(a) Negotiation to Determine Valuation. The Manager or other acquiring Members, as applicable, and the Liquidating Member or the personal representative, trustee or other successor-in-interest of the Liquidating Member shall promptly commence negotiations to establish the fair market value of the Liquidating Member’s interest in the Company. Value shall be determined as of the date of the election to buy out the interest of the Liquidating Member. Negotiations shall continue as long as required, provided that if an agreement is not reached within ninety (90) days after the date of the election to buy out the interest of the Liquidating Member or if negotiations

break down prior to such time, either party may terminate the negotiations and require the valuation to be submitted to appraisal, as provided in the following subsection.

(b) Appraisal to Determine Valuation. If the parties are unable to reach agreement through negotiations between themselves, they shall submit the valuation of the Liquidating Member's interest to the following appraisal process. In that event, unless the parties agree on a different appraisal procedure, the fair market value of the Liquidating Member's interest in the Company shall be determined as follows. Each of the parties shall promptly select an appraiser qualified by appropriate licensure or certification to conduct appraisals of interests in a limited liability company, taking into consideration the nature of the assets owned and business conducted by the Company, and such appraisers shall then select a third such appraiser. The value of the Liquidating Member's interest shall be the average of the two appraised values which are closest together. Each party shall bear the cost of the appraiser chosen by it and the parties shall split the cost of the third appraiser.

(c) Method of Valuation and Discounts. The value of the Liquidating Member's interest in the Company, whether determined by negotiation or appraisal, shall be arrived at by first determining the value of the Company as a whole by determining the Fair Market Value of the assets of the Company, net of liabilities, and then applying appropriate discounts with respect to the interest of the Liquidating Member to take into account, to the extent applicable, minority interest, nonmarketability of interest and other factors which would affect the value of the Liquidating Member's interest, or in any other manner determined to be appropriate by the aforesaid appraisers.

(d) Payment for Good Will. An appropriate portion of the value of the Liquidating Member's interest in the Company, as determined under Section 13.2(a) or (b) above, shall be allocated to good will, if there is any, provided that IRC Section 736(b)(3) is applicable.

13.3 Payment Schedule. Payment for the interest in the Company of a Liquidating Member, as valued under Section 13.2 above, may be made by the Company or, as applicable, the acquiring Member or Members, over a period of up to five (5) years in equal monthly, quarterly or annual installments of principal, together with accrued interest from the effective date of the buy-out or redemption. The unpaid balance of the purchase price shall bear interest at the minimum rate necessary to avoid the imputation of interest under the Internal Revenue Code. The unpaid balance of the purchase price need not be secured. The Company, or, as applicable, acquiring Member or Members, shall have the right to prepay all or any portion of such obligation at any time without notice or penalty. In the event the Company terminates under Article XIV below, prior to the payment in full by the Company of the foregoing obligation, the entire remaining balance of principal and accrued interest shall be immediately due and payable by the Company or, as applicable, the acquiring Member or Members, as set forth in Section 14.3 below. The execution of a note, contract or agreement by the Company or the acquiring Member or Members evidencing the installment payment obligation shall be sufficient to result in the immediate transfer and relinquishment of the interest in the Company of such Liquidating Member to the Company or acquiring Member or Members.

13.4 Buy/Sell upon Impasse. In the event of any dispute or disagreement arising between the Members in connection with this Operating Agreement or the operation of the Company or the Development Property (except a disagreement or dispute concerning the matters specified in Section 13.1 a., b., c., d., or e, but including any inability to agree upon a course of action with respect to any materially adverse impact upon the development, improvement, construction or use of the Development Property that is a direct or indirect result of compliance with the requirements of the Public Transit District Act or any other federal, state or local law applicable to the Property, now existing or hereafter enacted, adopted or becoming effective) that has the effect of preventing or materially and adversely affecting the operation of the Company or development of the Development Property pursuant hereto, the Members shall consult and negotiate with each other and use good faith efforts to settle the dispute and reach an equitable solution to the mutual satisfaction of the Members recognizing their mutual interests through good faith negotiation within thirty (30) days after the date that any Member informs the others in writing (the "Impasse Notice") that such dispute or disagreement exists (the "Impasse"). Such Impasse Notice shall designate the nature of the Impasse. If, following such consultation and good faith negotiation, the Members are unable to resolve the Impasse, then the Members shall have the rights set forth below.

In the event the Members fail to reach any decision regarding the Impasse within the above-referenced time period, any Member or Members (the "Initiator") may give written notice (the "Impasse Offer Notice") to other Member or Members (the "Respondent"), setting forth the Initiator's intent to either (a) buy all, but not less than all, of Respondent's interest in the Company, or (b) cause a sale of the Property.

In the event that Initiator elects (a) above, the provisions set forth below shall apply:

(i) Purchase Price. The Initiator shall specify in its Impasse Offer Notice the cash purchase price at which the Initiator would be willing to purchase one hundred percent (100%) of the Respondent's rights, title and interest as a Member.

(ii) Exercise of Impasse Put/Call. Upon receipt of the Impasse Offer Notice, the Respondent shall then be obligated either:

(X) To sell to the Initiator for cash its entire right, title and interest as a Member in the Company at the price specified in the Impasse Offer Notice, subject to adjustments as provided below; or

(Y) To purchase all of the right, title and interest of the Initiator as a Member of the Company, for that cash price that is proportionately equal (based upon respective Percentage Interests of the parties) to the cash price specified in the Impasse Offer Notice for the purchase of the Respondent membership interests, subject to adjustment as provided below.

(iii) The Respondent shall notify the Initiator of its election within sixty (60) calendar days after the date of receipt of the Impasse Offer Notice. Failure of the Respondent to give the Initiator notice that the Respondent has elected to proceed under (Y) above shall be conclusively deemed to be an election under (X).

(iv) Closings.

(X) Location and Time Periods. The closing of any sale of a Member's right, title and interest as a Member of the Company pursuant to this Section 13.4 shall be held at the principal offices of the Company, unless otherwise mutually agreed, on a mutually acceptable date not more than one hundred twenty (120) calendar days after (A) the receipt by the Initiator of the written notice of election by the Respondent, or (B) after the expiration of the time within which the Respondent must so elect, as provided above.

(Y) Closing Adjustments. At the closing, any closing adjustments as set forth in the Impasse Offer Notice (and if not so designated in the Impasse Offer Notice then those adjustments which are then usual and customary in Salt Lake County, Utah) shall be made between the purchasing party and the selling party as of the date of closing. Either Member transferring its right, title and interest as a Member shall transfer the same free and clear of any liens, encumbrances or any interests of any third party and shall execute or cause to be executed any and all documents required to fully transfer such Member's interest in the Company to the acquiring Member including, but not limited to, any documents necessary to evidence such transfer, and all documents required to release the interest of any other party who may claim an interest in such Member's right, title and interest as a Member. Any monetary default or obligation of the selling Member must be cured out of the proceeds from such sale at the closing. Following the date of closing, the selling Member shall have no further rights to any distributions under this Operating Agreement and all such rights shall vest in the selling Member's transferee.

In the event that Initiator elects (b) above and the Respondent does not agree to a sale of the Development Property within ten (10) business days of receipt of the Impasse Offer Notice or fails to respond to the Impasse Offer Notice, the Initiator shall have the right to issue a new Impasse Offer Notice and the terms and provisions relating to Section 13.4(a) with respect to a sale of all, but not less than all, of Respondent's interest as a Member of the Company, shall apply. In the event that Initiator elects (b) above and the Respondent agrees to a sale of the Property within ten (10) business days of receipt of the Impasse Offer Notice, the provisions set forth below shall apply:

(i) Initiator shall give the Respondent notice of its desire to sell the Development Property (the "Sales Offer Notice"), which Sales Offer Notice shall set forth the Initiator's good faith determination of the Fair Market Value of the Development Property. The Respondent shall, within thirty (30) calendar days after receipt of the Sales Offer Notice, deliver a notice (the "Sales Response Notice") to the Initiator that the Respondent either (x) consents to the sale of the Development Property at the purchase price and on the terms and conditions set forth in the Sales Offer Notice; or (y) disputes the Fair Market Value.

(ii) If the Respondent shall fail to respond within the 30-calendar day period, then the Respondent shall conclusively be deemed to have consented to the

sale of the Development Property. The Sales Offer Notice and the Sales Response Notice shall constitute a binding agreement as to the sale of the Development Property between the Initiator and the Respondent.

(iii) If the Respondent shall consent to the sale of the Development Property at the purchase price and upon the terms and conditions set forth in the Sales Offer Notice or shall fail to respond within the time parameters set forth above, the Initiator shall have the right, subject to this Section 13.4, to cause a sale of the Development Property for a cash purchase price equal to or greater than ninety-five percent (95%) of the Fair Market Value and on such terms and conditions as are then reasonably customary with respect to the sale of properties similar in size and quality to the Development Property, including the making of reasonably customary representations and warranties. The Respondent shall cooperate in the closing of said sale and shall execute such documentation as reasonably necessary to consummate said sale.

(iv) If the Respondent disputes the Fair Market Value, the Respondent shall initiate the appraisal procedure set forth below. The determination of said appraised value shall be deemed the Fair Market Value for purposes of this Section 13.4.

(v) In the event that the Development Property is to be sold pursuant to the terms and provisions of this Section 13.4 and such sale is not consummated within twelve (12) months from the date of the Respondent's election, then Initiator shall be required to send another Sales Offer Notice to the Respondent as set forth above and provide the Respondent with the elections set forth in this Section 13.4 pursuant to all time parameters and other provisions of this Section 13.4.

(vi) The Members acknowledge the importance of cooperation and joint efforts to effect the transfers set forth in this Section 13.4. The Members agree to use their reasonable efforts to consummate the transfers referenced herein and to act reasonably and in good faith. In the event that a Member shall breach its duties of reasonable efforts, good faith and reasonableness under any provision of this Section 13.4 and such breach shall result in the failure to consummate the sale of a Member's interest the Company or the Development Property, then such breach shall be deemed a default under this Operating Agreement.

(vii) In no event shall UTA, in connection with any sale of the Development Property under this Section 13.4 be obligated to modify, change, amend, waive or otherwise release any covenants, conditions, restrictions or equitable servitudes applicable to the Development Property for the benefit of the Retained Property.

ARTICLE XIV

DISSOLUTION AND TERMINATION

14.1 Dissolution and Continuation. The Company shall be dissolved upon the occurrence of any of the following events:

- (a) when the period fixed for the duration of the Company shall expire; or
- (b) the occurrence of a UTA Exit Event with respect to which UTA has, by written election, determined to not proceed under Article XIII with respect to such UTA Exit Event; or
- (c) upon the vote of the Manager and a vote in favor thereof by Members holding an aggregate of two-thirds (2/3) of the total Percentage Interests.

The death, Financial Insolvency, Incompetency, withdrawal, retirement, resignation, expulsion or dissolution of any Member shall not of itself cause the dissolution of the Company.

14.2 Winding Up the Company. Upon dissolution of the Company, the Manager shall immediately commence to wind up the affairs of the Company and shall engage in an orderly disposition of its assets where such can be done at a fair value (except to the extent the Manager may determine to distribute any assets to the Members in kind). The items comprising the Profits or Losses of the Company, as the case may be, as well as any specially allocated items for the Fiscal Year in which the Company is terminated, shall continue to be allocated to the Members or their representatives and be credited or charged to their respective Capital Accounts in accordance with Articles VI and VII, above. Further, the Capital Accounts of the Members or their representatives shall be adjusted as required by Paragraph B.2(c) of the Addendum attached hereto.

14.3 Distribution of Liquidation Proceeds. Pursuant to the winding up of the Company's affairs, the Company assets and the proceeds from the disposition of Company assets shall be applied in order of priority as follows:

- (a) First, to creditors of the Company other than Members (and other than any former Members receiving payments in buy-out of their interest in the Company under Section 13.3 above);
- (b) Second, to Members for any debts of the Company to such Members, including loans from Members to the Company under Section 5.5, and Members being bought out under Section 13.3 above, pro rata;
- (c) Third, to Members in the amount of the final positive balances in their respective Capital Accounts (after the allocation of all Profits, Losses and specially allocated items).

Each Member shall look solely to the assets of the Company for the return of such Member's investment in the Company, and if such assets or the proceeds from the liquidation of

such assets are insufficient to return said investment, such Member shall have no recourse against any other Member. Liquidating distributions to Members shall be made by the later of (i) the end of the Company taxable year in which Liquidation occurs, or (ii) ninety (90) days after Liquidation.

14.4 Return of Capital Contributions. A Member shall not be entitled to the return of specific property contributed to the Company nor to any payments in liquidation of such Member's interest in the Company other than in cash.

14.5 Negative Capital Account Balance. A negative balance in any Member's Capital Account which exists upon termination of the Company (after the allocation of all Profits and Losses through termination) shall not constitute a debt or liability of such Member to the Company, to any creditor of the Company, to any other Member, or to any other Person for any purpose whatsoever, and such Member shall have no obligation to make any additional capital contribution to the Company by reason of such negative balance.

14.6 Articles of Dissolution. When all debts, liabilities and obligations of the Company have been paid and discharged or adequate provisions have been made therefor and all of the remaining property and assets of the Company have been distributed to the Members, Articles of Dissolution shall be executed and filed pursuant to URLLCA Section 48-2c-1204. Upon issuance by the State of Utah of a certificate of dissolution, the Company shall be terminated.

ARTICLE XV

MISCELLANEOUS PROVISIONS

15.1 Amendments. This Operating Agreement may be amended, or amended and restated, at any time upon the affirmative unanimous vote of all the Members provided, however, Associates may make technical amendments to this Operating Agreement at any time which do not affect the economic interests of the Members as necessary in order to maintain the Operating Agreement in compliance with applicable tax and limited liability company law.

15.2 Notices. Except as otherwise provided herein, any notice, election or communication required or permitted to be given by any provision of this Operating Agreement shall be in writing and shall be deemed to have been sufficiently given or served for all purposes if delivered personally to the party to whom the same is directed or upon receipt or rejection or, if no evidence of receipt or rejection is provided by the addressee, three (3) days after being sent by United States mail, certified or registered mail, postage prepaid, addressed to such party's address set forth in the records of the Company. Any such address may be changed by notice given in the above manner.

15.3 Governing Law. This Operating Agreement is entered into under and shall be governed by the laws of the State of Utah.

15.4 Construction. Whenever the singular number is used in this Operating Agreement and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa.

15.5 Compliance With Law. The Members, the Manager and the Company shall, at all times, conduct themselves in compliance with the provisions of all applicable federal, state and local law, rules and regulations and with any binding administrative or judicial order. It is specifically acknowledged and agreed that, without limiting the same, applicable laws, rules and regulations, including the IRC, the Public Transit District Act and all applicable federal and state securities laws. Because of UTA's status as a governmental or quasi-governmental entity or political subdivision of the State of Utah, the Members and Manager acknowledge that certain obligations with respect to the disclosure of information may apply to the business, activities and operations, generally and also particularly to its participation in the Company, including but not limited to the provisions of the Utah Government Records Access and Management Act ("GRAMA"). Accordingly, the Members and Manager covenant and agree that they will reasonably cooperate, at no cost or expense to such Members or Manager, with any such legal requirements (including under GRAMA) that may be imposed upon UTA and will also administer, maintain and conduct the affairs of the Company in a manner that will enable UTA to comply with all such legal requirements. Further, as to the impact and effect of GRAMA, as and to the extent that GRAMA applies to data, documents, papers, information and other materials that UTA is required or may be required to disclose pursuant to a lawful GRAMA request, the Manager and Members will cooperate reasonably, at no out-of pocket cost or expense to such Members or Manager, in providing timely and lawful responses to the same. Notwithstanding the foregoing, the Members and Manager agree to use reasonable efforts to conduct the business of the Company in such a manner as to legally protect confidential and proprietary information from disclosure.

15.6 Headings. The headings in this Operating Agreement are inserted for convenience only and are not intended to describe, interpret, define or limit the scope, extent or intent of this Operating Agreement or any provision hereof.

15.7 Binding Effect. Each and all of the covenants, terms, provisions and agreements herein contained shall be binding upon and inure to the benefit of the parties hereto and, to the extent permitted by this Operating Agreement, their respective heirs, legal representatives, successors and assigns.

15.8 Counterparts. This Operating Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

15.9 Enforcement. In the event of a breach or dispute arising under this Operating Agreement, the non-breaching party or the party prevailing in such dispute shall be entitled to recover its costs, including without limitation reasonable attorneys' fees and court costs, from the breaching or non-prevailing party.

15.10 Entire Agreement. This Operating Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes any prior agreements,

discussions and understandings, whether written or oral, between and among the parties with respect hereto.

15.11 Consent. Whenever in this Operating Agreement, it is expressly provided that a requested consent or approval is “not to be unreasonably withheld, conditioned or delayed,” the provisions set forth below shall apply:

(a) The request for consent or approval shall be given or made in accordance with Section 15.2 of this Operating Agreement at the respective mailing addresses that are set forth opposite the Member’s respective signatures below. In addition, with respect to a request for approval or consent to a budget, a copy of such request shall also be sent to UTA, Attention: Jordan Valley TOD Manager, and with respect to a request for approval or consent to the Development Plan, a copy of such request shall also be sent to UTA, Attention: Jordan Valley TOD Manager;

(b) In the event that approval or disapproval is not received by the requesting Member within five (5) business days of the date of the request, such consent or approval shall be deemed given; and

(c) Any disapproval shall set forth with specificity the reason or reasons for disapproval and the corrective action that must be taken to obtain consent or approval.

(d) In the event that there is more than one (1) person entitled to receive notice hereunder, UTA shall send only one (1) response, and in the event that more than one (1) response is sent, and the responses are in conflict, approval shall be deemed given.

15.12 Time. Time is of the essence of this Operating Agreement and all of its provisions.

[The remainder of this page is left blank intentionally. Signatures are on the following page.]

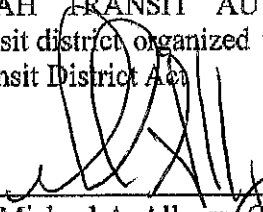
IN WITNESS WHEREOF, this Operating Agreement has been executed as of the date hereinabove first written by the following Members, whose respective mailing addresses are set forth opposite their signatures. By their signatures below said Members do hereby affirm that they have read the foregoing Operating Agreement and are familiar with its contents and they do hereby verify the accuracy thereof.

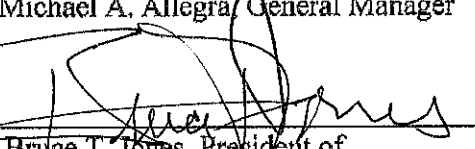
Mailing Addresses:

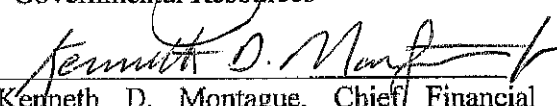
669 West 200 South
Salt Lake City, UT 84111

MEMBERS:


UTAH TRANSIT AUTHORITY, a public transit district organized under the Utah Public Transit District Act

By: 
Michael A. Allegra, General Manager

By: 
Bruce T. Jones, President of
Governmental Resources

By: 
Kenneth D. Montague, Chief Financial
Officer and Chief Procurement Officer

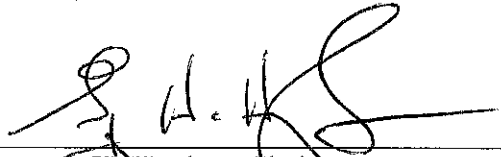
Approved as to Form:


Counsel for the Authority

BANGERter STATION ASSOCIATES, LLC,
a Utah limited liability company,

By: 
Jeffrey M. Ytek, Managing Member

The authorization of the forgoing officers to negotiate the terms of and execute this Operating Agreement by and between Utah Transit Authority and Bangerter Station Associates, LLC, was approved by the UTA Board of Trustees.

By: 
Gregory H. Hughes, Chair

SCHEDULE ONE

Agreed Dollar Value of Capital Contributions

<u>Member</u>	<u>Description of Property Contributed</u>	<u>Amount</u>	<u>Percentage Interests</u>
Utah Transit Authority	Development Property (as defined in the text of the Operating Agreement) and grant of use and other rights with respect to portions of the Infrastructure	\$11,750,000.00 (of which \$7,000,000 is the Development Property Total Value. i.e. the value of UTA contributed assets)	50%
Bangerter Station Associates, LLC		\$ _____	50%
		—	
TOTAL		<u>\$ _____</u>	<u>100%</u>
		=	

Timing/Schedule of Initial Contributions

The Initial Contribution of Associates may be made at such times as are provided in the Operating Agreement. Such contribution by Associates may be in the form of cash and/or all or a portion of its fees and/or reimbursements as provided in the Operating Agreement. UTA agrees that it will make its Initial Contribution by transferring the Development Property at the earliest possible date after the requisite lawful subdivision of the Property that will make the transfer of the Development Property a lawful transfer under the application subdivision laws of the State and the local governing authorities.

CAPITAL ACCOUNTING AND TAX ADDENDUM

A. DEFINITIONS

The following additional definitions are supplied for purposes of this Addendum:

(a) “Adjusted Capital Account” means a Member’s Capital Account as of the end of any Fiscal Year, increased by the amount of any deficit balance in such Member’s Capital Account which such Member is unconditionally obligated to restore to such Member’s Capital Account, or is deemed obligated to restore pursuant to the penultimate sentence of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), and decreased by the items described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6). The foregoing definition of Adjusted Capital Account is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(b) “Adjusted Tax Basis” means the adjusted tax basis of property for Federal income tax accounting purposes.

(c) “Book Depreciation” means for each Company Fiscal Year or other period, an amount equal to the Tax Depreciation for such year or other period, except that if the Book Value of an asset differs from its adjusted tax basis at the beginning of such year or other period, Book Depreciation shall be an amount which bears the same relationship to such beginning Book Value as the Tax Depreciation for such year or other period bears to such beginning Adjusted Tax Basis; provided, however, that if the Tax Depreciation for such year is zero, Book Depreciation shall be determined with reference to such beginning Book Value using any reasonable method selected by the Manager. The foregoing definition of Book Depreciation is intended to comply with the provisions of Regulations Section 1.704-1(b)(2)(iv)(g)(3) and shall be interpreted consistently herewith.

(d) “Book Value” means the value of property as reflected on the books of the Company in accordance with Paragraph B.2 of this Addendum.

(e) “Fair Market Value” means the fair market value of property, unreduced by any liabilities secured by such property. For the purpose of applying the capital accounting rules set forth in Paragraphs B.1(b) and B.1(g) of this Addendum and for purposes of Paragraph B.2(a) of this Addendum, such fair market value shall be determined without regard to the amount of any nonrecourse indebtedness secured by such property, in accordance with IRC Section 752(c). For all other purposes and provisions of this Operating Agreement, such fair market value shall be deemed to be no less than the amount of any nonrecourse indebtedness secured by such property, in accordance with IRC Section 7701(g) and Regulations Section 1.704-1(b)(2)(iv)(e)(1).

(f) “Partner Nonrecourse Liability” means any liability to the extent such liability is nonrecourse to the Company and a Member (or related person) bears the economic risk of loss as set forth in Regulations Section 1.704-2(b)(4).

(g) “Partner Nonrecourse Debt Minimum Gain” means the aggregate amount by which Partner Nonrecourse Liabilities, if any, exceed the adjusted tax bases of the Company properties which they encumber, as set forth in Regulations Sections 1.704-2(b)(2) and 1.704-2(i)(2).

(h) “Partner Nonrecourse Deductions” means items of loss, deduction or IRC Section 705(a)(2)(B) expenditures that are attributable to a Partner Nonrecourse Liability, as set forth in Regulations Section 1.704-2(i)(1). The amount of Partner Nonrecourse Deductions for a Company Fiscal Year equals the net increase, if any, in the amount of Partner Nonrecourse Debt Minimum Gain during such Fiscal Year, reduced (but not below zero) by the distribution of proceeds of any Partner Nonrecourse Liability made during such Fiscal Year to the Member (or Members) bearing the economic risk of loss for such liability which are both attributable to such liability and allocable to an increase in Partner Nonrecourse Debt Minimum Gain, as set forth in Regulations Section 1.704-2(i)(2).

(i) “Partnership Minimum Gain” means the aggregate amount by which Partnership Nonrecourse Liabilities, if any, exceed the adjusted tax bases of the Company properties which they encumber, as set forth in Regulations Sections 1.704-2(b)(2) and 1.704-2(d).

(j) “Partnership Nonrecourse Deductions” means items of loss, deduction or IRC Section 705(a)(2)(B) expenditures that are attributable to Partnership Nonrecourse Liabilities, as set forth in Regulations Section 1.704-2(b)(1). The amount of Partnership Nonrecourse Deductions for a Company Fiscal Year equals the net increase, if any, in the amount of Partnership Minimum Gain during such Fiscal Year, reduced (but not below zero) by the aggregate distributions made during such Fiscal Year of proceeds of any Partnership Nonrecourse Liability which are allocable to an increase in Partnership Minimum Gain, as set forth in Regulations Section 1.704-2(c).

(k) “Partnership Nonrecourse Liability” means any liability that is nonrecourse to the Company as to which no Member (or related person) bears any economic risk of loss as set forth in Regulations Section 1.704-2(b)(3).

(l) “Section 704(c) Property” has the meaning set forth in Paragraph C.1 of this Addendum.

(m) “Tax Depreciation” means for each Company Fiscal Year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such year or other period for federal income tax purposes.

B. CAPITAL ACCOUNT MAINTENANCE RULES

1. Basic Capital Accounting Rules. The Members' Capital Accounts shall be kept in accordance with the following rules. A Member's Capital Account shall be increased by:

(a) the amount of money contributed by such Member to the Company (including the amount of Company liabilities assumed by such Member other than liabilities described in subparagraph (g));

(b) the Fair Market Value of property other than money contributed (or deemed contributed) by such Member to the Company, net of liabilities secured by such property that the Company is considered to assume or take subject to under IRC Section 752;

(c) the amount of Company liabilities which are assumed by such Member (other than liabilities described in subsection (g) below which are assumed by a distributee Member);

(d) such Member's allocable share of the Profits of the Company under Section 7.1 above and of any items of income or gain which are specially allocated pursuant to Paragraph C.2 of this Addendum; and

(e) such Member's allocable share under Paragraph C.1(c) of this Addendum of any gain attributable to Section 704(c) Property, as computed for book purposes;

and shall be decreased by:

(f) the amount of money distributed by the Company to such Member (including the amount of such Member's individual liabilities assumed by the Company other than liabilities described in subparagraph (b));

(g) the Fair Market Value of property other than money distributed (or deemed distributed) by the Company to such Member, net of liabilities secured by such property that such Member is considered to assume or take subject to under IRC Section 752;

(h) the amount of such Member's individual liabilities which are assumed by the Company (other than liabilities described in subsection (b) above which are assumed by the Company);

(i) such Member's allocable share of the Losses of the Company under Section 7.2 above and of any items of loss or deduction which are specially allocated pursuant to Paragraph C.2 of this Addendum; and

(j) such Member's allocable share under Paragraph C.1(c) of this Addendum of any Book Depreciation or loss attributable to Section 704(c) Property, as computed for book purposes.

The Members' Capital Accounts shall also be debited or credited as provided in Paragraphs B.2(c) and B.2(d) of this Addendum. Also, in determining the amount of any liability for purposes of this provision, there shall be taken into account IRC Section 752(c) and any other applicable provisions of the IRC and Regulations.

2. Valuation of Company Property; Capital Account Adjustments. The Book Value of Company property shall be its Adjusted Tax Basis except in the following instances:

(a) Contributed Property. The Book Value of property contributed (or deemed contributed) to the Company by any Member shall be equal to its Fair Market Value on the date of contribution (or deemed contribution).

(b) Distributed Property. The Book Value of property distributed (or deemed distributed) by the Company to any Member, whether in connection with the Liquidation of the Company or otherwise, shall be increased or decreased, as the case may be, to equal its Fair Market Value on the date of distribution (or deemed distribution), and the Capital Accounts of the Members shall be debited or credited, as the case may be, to reflect the manner in which gain or loss, as computed for book purposes, would be allocated among the Members if there were a taxable disposition of such property for such Fair Market Value.

(c) Other Property at Time of Contribution or Distribution. In connection with either

(i) a contribution (or deemed contribution) of money or other property, including services, to the Company by a new or existing Member in exchange for a new or increased interest in the Company, or

(ii) a distribution (or deemed distribution) of money or other property by the Company to a withdrawing or continuing Member in exchange for all or a portion of such Member's interest in the Company, or

(iii) the Liquidation of the Company,

the Book Values of all Company assets, including good will if applicable, shall be increased or decreased, as the case may be, to equal their respective Fair Market Values on the date of such contribution or distribution (or deemed contribution or distribution), and the Capital Accounts of the Members shall be debited or credited, as the case may be, to reflect the manner in which gain or loss, as computed for book purposes, would be allocated among the Members if there were a taxable disposition of all such assets for such Fair Market Values; provided, however, in the case of subparagraphs (i) and (ii) hereof, such adjustment need not be made if such contribution or distribution is of a *de minimis* amount or if the Members reasonably determine that such adjustment is not necessary or appropriate in view of the cost to the Company of making such adjustment as compared with the distortion in the relative economic interests of the Members which would result from not making such adjustment. Paragraphs (a), (b) and (c) hereof are

intended to comply with Regulations Section 1.704-1(b)(2)(iv)(d), (e) and (f) and shall be interpreted consistently therewith.

(d) Section 754 Adjustments. The Book Value of an item of Company property shall be increased or decreased, as the case may be, to equal its Adjusted Tax Basis whenever an adjustment to the Adjusted Tax Basis of such item of Company property arises under IRC Sections 732(d), 734 or 743 and such adjustment exceeds the difference between the Book Value of such item of Company property and its Adjusted Tax Basis prior to making such adjustment. Such increase or decrease in Book Value shall then be allocated to the Capital Accounts of the Members in accordance with Regulations Section 1.704-1(b)(2)(iv)(m). This Paragraph shall be applied only after the application of Paragraphs B.2(a), (b) and (c) above.

C. SPECIAL TAX ALLOCATION RULES

1. Special Allocation Rules Where Book Value and Adjusted Tax Basis Are Unequal. Notwithstanding the general allocation rules set forth in Sections 7.1 and 7.2 above, as to property the Book Value of which is different from its Adjusted Tax Basis ("Section 704(c) Property"), the following rules and definitions shall apply:

(a) If the Book Value of property exceeds its Adjusted Tax Basis, such excess shall be referred to as "Built-in Gain." Conversely, if the Adjusted Tax Basis of property exceeds its Book Value, such excess shall be referred to as "Built-in Loss."

(b) Built-in Gain or Built-in Loss may arise as the result of the contribution or deemed contribution of property to the Company by one or more Members (the "Contributing Members") or as the result of the revaluation of existing Company property under Paragraph B.2 of this Addendum. If existing Company property is revalued, the existing Members shall be considered the Contributing Members as to such property. The term Contributing Members shall include successors-in-interest thereto.

(c) Book Depreciation, and gain or loss with respect to Section 704(c) Property as computed for book purposes, shall be allocated to the Members in accordance with the general profit and loss sharing percentages specified in Sections 7.1 and 7.2 above, and the Members' Capital Accounts shall be adjusted accordingly, as set forth in Paragraph B.1 of this Addendum.

(d) Tax Depreciation, and gain or loss with respect to Section 704(c) Property as computed for tax purposes, shall be allocated to the Members in a manner that takes into account the Built-in Gain or Built-in Loss with respect to such property, in accordance with Section 704(c) of the IRC and equivalent principles, as follows, and such allocations shall not be independently reflected by further adjustments to the Members' Capital Accounts:

(i) With respect to Built-in Gain property, one hundred percent (100%) of any tax gain shall be allocated to the Contributing Members in the same proportion as such Built-in Gain has been credited to their respective Capital

Accounts; Tax Depreciation shall be allocated to the Members other than the Contributing Members (the “Noncontributing Members”) in the same proportion as, but in an amount not to exceed, the Book Depreciation with respect to such property which has been allocated to them under Paragraph C.1(c) of this Addendum; and any excess of such Tax Depreciation over the amount allocated to the Noncontributing Members shall be allocated to the Contributing Members in the same proportion that the Book Depreciation with respect to such property has been allocated to the Contributing Members under Paragraph C.1(c) of this Addendum. These allocations shall continue until the Built-in Gain has been eliminated. Thereafter, any Tax Depreciation and gain or loss with respect to such property shall be allocated to the Members pursuant to the general profit and loss allocation provisions of Sections 7.1 and 7.2 above.

(ii) With respect to Built-in Loss property, one hundred percent (100%) of any tax loss shall be allocated to the Contributing Members in the same proportion as such Built-in Loss has been charged to their respective Capital Accounts; Tax Depreciation shall be allocated to the Noncontributing Members in the same proportion as, but in an amount not to exceed, the Book Depreciation with respect to such property which has been allocated to them under Paragraph C.1(c) of this Addendum; and any excess of such Tax Depreciation over the amount allocated to the Noncontributing Members shall be allocated to the Contributing Members in the same proportion that the Book Depreciation with respect to such property has been allocated to the Contributing Members under Paragraph C.1(c) of this Addendum. These allocations shall continue until the Built-in Loss has been eliminated. Thereafter, any Tax Depreciation and gain or loss with respect to such property shall be allocated to the Members pursuant to the general profit and loss allocation provisions of Sections 7.1 and 7.2 above.

(iii) In the event that the allocation of tax gain, tax loss or Tax Depreciation to the Noncontributing Members under Paragraph C.1(d)(i) or C.1(d)(ii) of this Addendum is limited by application of the “ceiling rule” set forth in Regulations Section 1.704-3(b)(1), the Company may do any of the following:

(A) make reasonable curative allocations of income, gain, loss or deduction with respect to the tax item limited by the ceiling rule, including income from the disposition of contributed or revalued property, in accordance with the rules set forth in Regulations Section 1.704-3(c); or

(B) make remedial allocations of income, gain, loss or deduction with respect to the tax item limited by the ceiling rule in accordance with the rules set forth in Regulations Section 1.704-3(d); or

(C) if applicable, apply the “small disparity” rules of Regulations Section 1.704-3(e).

The foregoing provision is intended to comply with Regulations Section 1.704-1(b)(2)(iv)(g) and Section 1.704-3(e) and shall be interpreted consistently therewith.

2. Special and Regulatory Allocations.

(a) Partnership Nonrecourse Deductions. Partnership Nonrecourse Deductions for any Company Fiscal Year shall be allocated among the Members in accordance with the Members' percentage interests in Losses, as set forth in Section 7.2 above. This Paragraph C.2(a) is intended to comply with Regulations Section 1.704-2(e)(2) and shall be interpreted consistently therewith.

(b) Partner Nonrecourse Deductions. Partner Nonrecourse Deductions for any Company Fiscal Year shall be allocated to the Member who bears the economic risk of loss for the Partner Nonrecourse Liability to which such deductions are attributable, or among all the Members who bear the economic risk of loss for such liability according to the ratio in which they bear such economic risk of loss. This Paragraph C.2(b) is intended to comply with Regulations Section 1.704-2(i)(1) and shall be interpreted consistently therewith.

(c) Partnership Minimum Gain Chargeback. If there is a net decrease in Partnership Minimum Gain during any Company Fiscal Year, then in that event, prior to the making of any other allocation under either Article VII above or this Addendum, there shall be specially allocated to all Members items of income and gain for such year (and, if necessary, subsequent years) equal to their share of such net decrease in Partnership Minimum Gain within the meaning of Regulations Sections 1.704-2(f)(1) and 1.704-2(g)(2).

(d) Partner Nonrecourse Debt Minimum Gain Chargeback. If there is a net decrease in Partner Nonrecourse Debt Minimum Gain during any Company Fiscal Year, then in that event, prior to the making of any other allocation under either Article VII above or this Addendum, there shall be specially allocated to all Members with a share of that Partner Nonrecourse Debt Minimum Gain items of income and gain for such year (and, if necessary, subsequent years) equal to their share of such net decrease in Partner Nonrecourse Debt Minimum Gain within the meaning of Regulations Sections 1.704-2(i)(4) and 1.704-2(i)(5).

(e) Qualified Income Offset. Subject to the provisions of Paragraph C.2(a) of this Addendum, in the event a Member unexpectedly receives an adjustment, allocation or distribution described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6) which creates a deficit in such Member's Adjusted Capital Account, items of income and gain shall be specially allocated to such Member in an amount and manner sufficient to eliminate such deficit as quickly as possible. This Paragraph C.2(b) is intended to comply with the qualified income offset requirement set forth in Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(f) Curative Allocations. The special allocations set forth in Paragraphs C.2(a) through C.2(e) of this Addendum (the "Regulatory Allocations") are intended to comply with certain requirements of Regulations Sections 1.704-1(b) and 1.704-2(b). The Regulatory Allocations shall be taken into account in determining the allocation of

Profits and Losses pursuant to Sections 7.1 and 7.2 above so that, to the extent possible without nullifying the Regulatory Allocations, the amount of the allocations of Profits and Losses under Sections 7.1 and 7.2, as adjusted pursuant to this Paragraph C.2(f), and of the Regulatory Allocations, when taken together, shall be equal to the amount of such allocations of Profits and Losses that would have been allocated to the Members under Sections 7.1 and 7.2 if the Regulatory Allocations had not occurred.

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT B

CONCEPTUAL SITE PLAN

(RETAINED PROPERTY CROSS HATCHED)

