

**NOTICE OF REDEVELOPMENT AGENCY MEETING
LAYTON, UTAH**

PUBLIC NOTICE is hereby given that the Redevelopment Agency (RDA) of Layton, Utah, will hold a public meeting in the Council Conference Room, in the City Center Building, 437 North Wasatch Drive, Layton, Utah, at **5:30 p.m. on April 18, 2013.**

THE AGENDA FOR THE MEETING CONSISTS OF THE FOLLOWING:

Item	Page
1. Approval of Minutes of the Redevelopment Agency Meeting – January 17, 2013.....	1
2. Cooperative Agreement (Agreement) between the Redevelopment Agency of Layton City (RDA) and the Utah Department of Transportation (UDOT) – RDA Resolution 13-01 – 200 South Main Street	2
3. Encroachment and Access Agreement (Agreement) between the Redevelopment Agency of Layton City (RDA) and the Utah Transit Authority (UTA) – RDA Resolution 13-02 200 South Main Street	12

ADJOURN:

In the event of an absence of a full quorum, agenda items will be continued to the next regularly scheduled meeting.

Notice is hereby given that by motion of the Layton City Redevelopment Agency Board, pursuant to Title 52, Chapter 4 of the Utah Code, Layton City RDA Board may vote to hold a closed meeting for any of the purposed identified in that Chapter.

LAYTON CITY does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in the employment or the provision of services. If you are planning to attend this public meeting and, due to a disability, need assistance in understanding or participating in the meeting, please notify Layton City eight or more hours in advance of the meeting. Please contact Kiley Day at 437 North Wasatch Drive, Layton, Utah 84041, telephone number 801.336.3825 or 801.336.3820.

D R A F T

MINUTES OF THE MEETING OF THE REDEVELOPMENT AGENCY OF LAYTON CITY

JANUARY 17, 2013; 5: 33 P.M.

BOARDMEMBERS AND OFFICERS PRESENT:

**CHAIRMAN J. STEPHEN CURTIS, VICE
CHAIRMAN MICHAEL BOUWHUIS, EXECUTIVE
DIRECTOR ALEX JENSEN, JOYCE BROWN,
BARRY FLITTON, JORY FRANCIS AND SCOTT
FREITAG**

STAFF PRESENT:

**GARY CRANE, BILL WRIGHT, PETER MATSON
AND SECRETARY, THIEDA WELLMAN**

The meeting was held in the Council Conference Room of the Layton City Center.

Chairman Steve Curtis opened the meeting.

MINUTES:

Vice Chairman Bouwhuis moved to approve the minutes of December 6, 2012, and December 20, 2012, as written. Boardmember Flitton seconded the motion, which passed unanimously.

AGENDA:

ELECTION OF A VICE-CHAIRPERSON

Chairman Curtis indicated that a Vice Chairperson needed to be elected. The Vice Chairman elected in 2012 was Michael Bouwhuis.

MOTION: Boardmember Freitag moved to elect Boardmember Francis as Vice Chairperson. Boardmember Flitton seconded the motion, which passed unanimously.

The meeting adjourned at 5:34 p.m.

Thieda Wellman, Secretary

**LAYTON CITY REDEVELOPMENT AGENCY MEETING
AGENDA ITEM COVER SHEET**

Item Number: 2

Subject: Cooperative Agreement (Agreement) between the Redevelopment Agency of Layton City (RDA) and the Utah Department of Transportation (UDOT) – RDA Resolution 13-01 – 200 South Main Street

Background: The Staff of RDA and UDOT have negotiated the Agreement, which will transfer the historic Layton Oregon Short Line Railroad Station (Station) and associated acreage (Property), located at 200 South Main Street, from UDOT to the RDA. The Agreement requires UDOT to fund to the RDA the cost of obtaining a preservation easement and requires the RDA to submit the National Register of Historic Places Registration Form for the Station. The Agreement also outlines that UDOT shall fund, construct or have constructed through contract, the parking lot on the Property.

The Station was originally constructed in 1911 to serve as a passenger depot and freight house for the Oregon Short Line Railroad. The Station was moved from its original location in 1972 to its current location, which is approximately 500 feet further north along the tracks. The Station sits on approximately 0.4 acres and has an interior of approximately 3,600 square feet (2,700 square foot main floor, 900 square foot second floor).

In September, 2008, due to the construction of the South Layton Interchange Project, the City participated as a consulting party to the Programmatic Agreement between the Federal Highway Administration and the Utah State Historic Preservation Office to preserve the Station and Property. UDOT has determined that it is in the best interest of the preservation of the Station and Property to transfer ownership from UDOT to the RDA.

To ensure preservation of the Station, UDOT is funding to the RDA \$11,455 for the estimated cost of the preservation easement to the RDA. This amount is calculated using the associated fees and one percent of the projected rehabilitation cost. Pursuant to the Agreement, it is the responsibility of the RDA to submit the National Register of Historic Places Registration Form, of which a draft has already been completed.

As part of the cooperative nature of this Agreement, UDOT has agreed to construct a 49-stall parking lot on the Property to service the Station. These parking stalls will be available for Station and Utah Transit Authority (UTA) clients until such time as it is deemed necessary to restrict such use, whether by signage designating exclusive use, by ticketing, or by some other method as coordinated between Layton City and UTA. As part of the Agreement, UDOT agrees to complete the parking lot before September 30, 2013.

To construct the necessary amount of parking for the Station, the parking lot must encroach onto UTA property. An access agreement is also necessary to provide for public access to the Property through the adjacent UTA property. An Encroachment and Access Agreement between the RDA and UTA is being considered by the RDA in Resolution 13-02.

Once the Station and Property have been transferred to the RDA, exterior rehabilitation of the Station using Community Development Block Grant (CDBG) funds can begin. Staff expects private sector financing and/or other grants or tax credits to fund the interior rehabilitation. In the spring of 2012, the consulting firm, CRSA, estimated the full rehabilitation, including exterior and interior, of the Station to

be \$825,000. Depending upon the circumstances of the deal, the RDA could lease or sell the property to an individual or business. Staff believes this site to be an attractive commercial/professional office use.

With the approval and execution of this Agreement, all parties are prepared to proceed with the transfer of the Station and Property from UDOT to the RDA, receive funds for the preservation easement, and coordinate the construction of the parking lot.

Alternatives: Alternatives are to 1) Adopt RDA Resolution 13-01 approving the Cooperative Agreement between the Redevelopment Agency of Layton City and the Utah Department of Transportation; 2) Adopt RDA Resolution 13-01 with any amendments the Agency deems appropriate; or 3) Not adopt RDA Resolution 13-01 and remand to Staff with directions.

Recommendation: Staff recommends the Agency adopt RDA Resolution 13-01 approving the Cooperative Agreement between the Redevelopment Agency of Layton City and the Utah Department of Transportation and authorize the RDA Board Chair to execute the agreement.

RDA RESOLUTION 13-01

A RESOLUTION ADOPTING AND APPROVING A COOPERATIVE AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY OF LAYTON CITY AND THE UTAH DEPARTMENT OF TRANSPORTATION.

WHEREAS, The Redevelopment Agency of Layton City (RDA) adopted the South Main/South Fort Lane Redevelopment Project Area Plan and Budget on June 20, 2002, for the betterment of historic downtown Layton City; and

WHEREAS, the construction of the South Layton Interchange Project (Layton Parkway) by the Utah Department of Transportation (UDOT) threatened to eliminate access to the historic Layton Oregon Short Line Railroad Station (Property); and

WHEREAS, UDOT has determined that preservation of the Property is in the best interests of the community and the Property; and

WHEREAS, in order to best preserve the Property, UDOT wishes to transfer ownership of the Property to the RDA through a Cooperative Agreement, which is attached hereto and incorporated by this reference; and

WHEREAS, UDOT and the RDA agree that vehicular access and on-site parking are important to the long-term commercial viability of the Property; and

WHEREAS, UDOT agrees to provide funds to the RDA for the cost of obtaining a Preservation Easement for the Property, and the RDA agrees to submit the National Register of Historic Places Registration Form; and

WHEREAS, the RDA or its successor or assignee will be responsible for restoration, renovation, and reconstruction of the Property consistent with its historic designation; and

WHEREAS, UDOT shall fund, construct or have constructed through contract, the parking lot on the Property; and

WHEREAS, the RDA Board determines it to be in the best interest of the RDA to enter into this Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF LAYTON CITY, UTAH:

1. That the agreement entitled "COOPERATIVE AGREEMENT" between the RDA and UDOT, is hereby adopted and approved.
2. That the RDA Chair be authorized to execute the Agreement.

ADOPTED by the Board of Directors of the Redevelopment Agency of Layton City, this ____ day of _____, _____.

J. STEPHEN CURTIS, Chair

ATTEST:

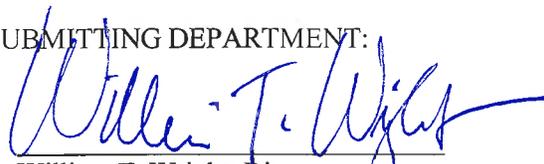
THIEDA WELLMAN, Secretary

APPROVED AS TO FORM:



Fol. GARY CRANE, City Attorney

SUBMITTING DEPARTMENT:



William T. Wright, Director
Community and Economic Development

COOPERATIVE AGREEMENT

THIS COOPERATIVE AGREEMENT made and entered into this _____ day of _____, 20_____, by and between the **Utah Department of Transportation**, hereinafter referred to as **UDOT**, and **The Redevelopment Agency of Layton City**, hereinafter referred to as the **AGENCY**.

Witnesseth:

WHEREAS, **UDOT** and Layton City Corporation have previously participated as Consulting Parties to the Programmatic Agreement between the Federal Highway Administration (FHA) and the Utah State Historic Preservation Office (SHPO), dated September 2008, to preserve the historic Layton Oregon Short Line Railroad Station and associated site, including real property, hereinafter referred to as the Property, to mitigate the loss of access to the Property caused by the construction of the South Layton Interchange Project; and

WHEREAS, **UDOT** and the **AGENCY** agree that it is in the best interest of the preservation of the Property to transfer ownership from **UDOT** to the **AGENCY**; and

WHEREAS, The **AGENCY** is agreeable to receive the Property and improvements from **UDOT** through a Quit Claim Deed for the sum of Ten dollars (\$10.00); and

WHEREAS, **UDOT** will provide funds to the **AGENCY** for the cost of obtaining a Preservation Easement on the Property as established in this **COOPERATIVE AGREEMENT**; and

WHEREAS, The **AGENCY** will be responsible for the submittal of the National Register of Historic Places Registration Form and nomination for the Property; and

WHEREAS, The **AGENCY** or its successor or assignee, will be responsible for restoration, renovation and reconstruction of the historic Layton Oregon Short Line Railroad Station consistent with its historic designation; and

WHEREAS, **UDOT** will fund, construct or have constructed through a contract, the parking lot on the Property. The design, as approved by the **AGENCY**, is shown in Exhibit A. Construction shall be completed on or before September 1, 2013 under UDOT Project No. F-0126(24)0. The **AGENCY** agrees to grant **UDOT** approval to enter the site and construct the parking lot and associated appurtenances.

THIS COOPERATIVE AGREEMENT is made to set out the terms and conditions of the Property transfer of ownership to the **AGENCY**, the construction of the parking lot by **UDOT** and the payment by **UDOT** to the **AGENCY** for the cost of the Preservation Easement.

NOW THEREFORE, it is agreed by and between the parties hereto as follows:

1. The **AGENCY** will accept the Property including all improvements from **UDOT** through a Quit Claim Deed for the sum of Ten dollars (\$10.00).
2. **UDOT** will fund, construct or have constructed through a contract, the parking lot on the Property. The design, as approved by the **AGENCY**, is shown in Exhibit A. Construction shall be completed on or before September 15, 2013 under **UDOT** Project No. F-0126(24)0. The **AGENCY** agrees to grant **UDOT** approval to enter the site and construct the parking lot and associated appurtenances. **UDOT** or its contractor shall comply with all applicable provisions within the Utah Transit Authority Encroachment and Access Agreement as shown in Exhibit B during the construction of the parking lot.
3. **UDOT** will pay to the **AGENCY** funds necessary for the estimated cost of the Preservation Easement as follows:

Membership, Application and Baseline Documentation Fee	\$1,205.00
Easement Monitoring Fee (a one-time fee of 1% of the appraised property value)	\$2,000.00
1% of the projected rehab cost	\$8,250.00
TOTAL	\$11,455.00

4. Within 60 days of execution of this **COOPERATIVE AGREEMENT**, **UDOT** will pay the **AGENCY** a lump sum amount of eleven thousand four hundred and fifty five dollars (\$11,455.00); said amount will be **UDOT's** total contribution to the Preservation Easement.

5. **UDOT** and the **AGENCY** are both governmental entities subject to the Utah Governmental Immunity Act. Each party agrees to indemnify, defend and save harmless the other from and against all claims, suits and costs, including attorneys' fees for injury or damage of any kind, arising out the negligent acts, errors or omissions of the indemnifying party's officers, agents, contractors or employees in the performance of this **COOPERATIVE AGREEMENT**. Nothing in this paragraph is intended to create additional rights to third parties or to waive any provision of the Utah Governmental Immunity Act, provided said Act applies to the action or omission giving rise to the protections in this paragraph. The indemnification in this paragraph shall survive the expiration or termination of this **COOPERATIVE AGREEMENT**.
6. This **COOPERATIVE AGREEMENT** may be executed in one or more counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This **COOPERATIVE AGREEMENT** shall become effective when each Party hereto shall have received a counterpart hereof signed by the other Party hereto.
7. This **COOPERATIVE AGREEMENT** shall be governed by the laws of the State of Utah and Federal Law both as to interpretation and performance.
8. Nothing contained in this **COOPERATIVE AGREEMENT** shall be deemed or construed, either by the parties hereto or by any third party, to create the relationship of principal and agent or create any partnership, joint venture or other association between the Parties.
9. This **COOPERATIVE AGREEMENT** contains the entire agreement between the Parties, with respect to the subject matter hereof, and no statements, promises, or inducements made by either Party or agents for either Party that are not contained in this written **COOPERATIVE AGREEMENT** shall be binding or valid.
10. If any provision hereof shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule or public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative, or unenforceable to any extent whatever. The invalidity of any one or more

phrases, sentences, clauses, or paragraphs herein contained, shall not affect the remaining portions hereof, or any part thereof.

11. Each party represents that it has the authority to enter into this **COOPERATIVE AGREEMENT.**

IN WITNESS WHEREOF, the parties hereto have caused this **COOPERATIVE AGREEMENT** to be executed by their duly authorized officers as to the day and year first above written.

ATTEST:

Redevelopment Agency of Layton CITY, a
Municipal Corporation of the State of Utah

By: _____
THIEDA WELLMAN, Agency Secretary

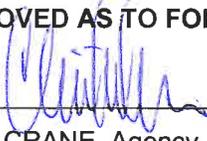
By: _____
J. STEPHEN CURTIS, Chair

Date: _____

Date: _____

(IMPRESS SEAL)

APPROVED AS TO FORM:

For: By:  _____
GARY CRANE, Agency Attorney
Date: _____

RECOMMENDED FOR APPROVAL:

UTAH DEPARTMENT OF TRANSPORTATION

By: _____
PROJECT MANAGER

By: _____
REGION DIRECTOR

Date: _____

Date: _____

APPROVED AS TO FORM:

UDOT COMPTROLLER'S OFFICE

The Utah State Attorney General's Office
has previously approved all paragraphs in
this Agreement as to form.

By: _____
CONTRACT ADMINISTRATOR

Date: _____

Project No. S-15-8(211)332
South Layton Interchange
Parcel No. 10:STQ
Redevelopment Agency of Layton City
CID #: 51018 PIN #: 4184

EXHIBIT A

APPROVED PARKING LOT DESIGN:

UDOT Project No. F-0126(24)0

Project No. S-15-8(211)332
South Layton Interchange
Parcel No. 10:STQ
Redevelopment Agency of Layton City
CID #: 51018 PIN #: 4184

EXHIBIT B

UTA ENCROACHMENT AND ACCESS AGREEMENT

**LAYTON CITY REDEVELOPMENT AGENCY MEETING
AGENDA ITEM COVER SHEET**

Item Number: 3

Subject: Encroachment and Access Agreement (Agreement) between the Redevelopment Agency of Layton City (RDA) and the Utah Transit Authority (UTA) – RDA Resolution 13-02 – 200 South Main Street

Background: The Staff of RDA and the Utah Department of Transportation (UDOT) have negotiated a property transfer, in which UDOT will transfer the historic Layton Oregon Short Line Railroad Station (Station) and associated acreage (Property) from UDOT to the RDA. As part of the property transfer, UDOT shall fund, construct or have constructed through contract, a 49-stall parking lot on the Property to service the Station. These parking stalls will be available for Station and UTA clients until such time as it is deemed necessary to restrict such use for the Station, whether by signage designating exclusive use, by ticketing, or by some other method as coordinated between Layton City and UTA. UDOT agrees to complete the parking lot before September 15, 2013.

To construct the necessary amount of parking for the Station, the parking lot must encroach onto UTA property. Also, an access agreement is necessary to allow for access to the Property through the adjacent UTA Park and Ride Lot. The Agreement between the RDA and UTA will facilitate the extension of the parking lot and access to the Property.

With the approval and execution of this Encroachment and Access Agreement, all parties are prepared to proceed with the coordination of the construction of the parking lot.

Alternatives: Alternatives are to 1) Adopt RDA Resolution 13-02 approving the Encroachment and Access Agreement between the Redevelopment Agency of Layton City and the Utah Transit Authority; 2) Adopt RDA Resolution 13-02 with any amendments the Agency deems appropriate; or 3) Not adopt RDA Resolution 13-02 and remand to Staff with directions.

Recommendation: Staff recommends the Agency adopt RDA Resolution 13-02 approving the Encroachment and Access Agreement between the Redevelopment Agency of Layton City and the Utah Transit Authority and authorize the RDA Board Chair to execute the agreement.

RDA RESOLUTION 13-02

A RESOLUTION ADOPTING AND APPROVING AN ENCROACHMENT AND ACCESS AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY OF LAYTON CITY AND THE UTAH TRANSIT AUTHORITY.

WHEREAS, The Redevelopment Agency of Layton City (RDA) adopted the South Main/South Fort Lane Redevelopment Project Area Plan and Budget on June 20, 2002, for the betterment of historic downtown Layton City; and

WHEREAS, the Utah Department of Transportation (UDOT) and the RDA have cooperatively agreed to transfer ownership of the historic Layton Oregon Short Line Railroad Station (Property) from UDOT to the RDA; and

WHEREAS, the Utah Transit Authority (UTA) owns property abutting the property; and

WHEREAS, UTA, UDOT and the RDA agree that vehicular access and on-site parking are important to the long-term commercial viability of the Property; and

WHEREAS, in order for the public to access and utilize the Property, it is necessary to construct on-site parking for the Property and enter into an encroachment and access agreement with UTA; and

WHEREAS, the staff has negotiated an Encroachment and Access Agreement with UTA, which is attached hereto and incorporated by this reference; and

WHEREAS, the RDA Board determines it to be in the best interest of the RDA to enter into this Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE REDEVELOPMENT AGENCY OF LAYTON CITY, UTAH:

1. That the agreement entitled "ENCROACHMENT AND ACCESS AGREEMENT" between the RDA and UTA, is hereby adopted and approved.
2. That the RDA Chair be authorized to execute the Agreement.

ADOPTED by the Board of Directors of the Redevelopment Agency of Layton City, this ____ day of _____, _____.

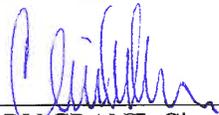
J. STEPHEN CURTIS, Chair

ATTEST:

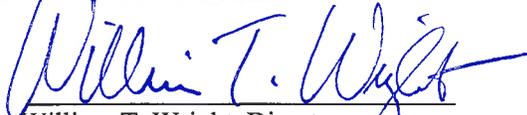
THIEDA WELLMAN, Secretary

APPROVED AS TO FORM:

SUBMITTING DEPARTMENT:

Fok!


GARY CRANE, City Attorney



William T. Wright, Director
Community and Economic Development

ENCROACHMENT AND ACCESS AGREEMENT
(Interlocal Municipal Form)

UTA Contract # SO/D/2362/A
Mile Post Location: N22.54
Layton City, Utah

THIS ENCROACHMENT AND ACCESS AGREEMENT (the "Agreement") is made and entered into as of the ____ day of _____, 20__ **(to be dated after the final executing signature by UTA)**, by and between UTAH TRANSIT AUTHORITY, a public transit district organized pursuant to the laws of the State of Utah (hereinafter "UTA"), and The Redevelopment Agency of Layton City, a governmental agency organized under the laws of the State of Utah (hereinafter "Licensee").

RECITALS

WHEREAS, UTA is the owner of approximately the eastern 70' feet of a certain railroad corridor (the "Right of Way") and an adjacent Park and Ride Lot ("Layton Station") acquired by UTA for the development and expansion of its public transportation system (the Right of Way and Layton Station will be collectively referred to as "UTA Property"); and

WHEREAS, Licensee intends to operate a parking lot ("Parking Lot") adjacent to the UTA Property which, as designed, will encroach approximately 14 to 15 feet onto the easterly edge of the Right of Way for approximately 260 feet (such area comprises 3,931.59 sq. ft. and is hereafter referred to as the "Encroachment Area") and will be accessed through the Layton Station; and

WHEREAS, the Parking Lot will initially be constructed by a contractor procured by the Utah Department of Transportation ("UDOT"), working with Licensee; and

WHEREAS, Licensee desires a license for the construction, operation and maintenance of the Parking Lot; and

WHEREAS, Licensee also desires the right to access the Parking Lot through the Layton Station, and

WHEREAS, UTA has determined that the Encroachment Area is not currently needed or used for any of its transit projects or programs; and

WHEREAS, UTA is willing to grant Licensee a license to use the Encroachment Area for the Parking Lot, subject to the terms, conditions and limitations set forth in this Agreement.

AGREEMENT

NOW THEREFORE, on the stated Recitals, which are incorporated herein by reference, and for and in consideration of the mutual covenants and agreements hereinafter 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:

ARTICLE I INCORPORATED TERMS AND DEFINITIONS

For purposes of this Agreement, the following definitions shall apply:

1.1 “Construct” and “Construction” mean the initial installation of the Parking Lot (or any improvements to the Parking Lot) in or otherwise materially affecting the UTA Property, as well as any subsequent reconstruction, relocation, restoration or rehabilitation of the Parking Lot (or any improvements to the Parking Lot) in or otherwise materially affecting the UTA Property or UTA’s adjacent Park and Ride Lot.

1.2 “Emergency Access Manager” means the person or office responsible for controlling emergency Construction and Maintenance access to the UTA Property. The Emergency Access Manager as of the execution of this Agreement is **Commuter Rail Dispatch at (801) 287-5455**. UTA may change the designated Emergency Access Manager from time to time by delivery of notice in accordance with Article XVI of this Agreement.

1.3 “Freight Operator” means any entity using the Right of Way, or any portion thereof, to provide common carrier freight operations.

1.4 “Governmental Authority” means any federal, state, municipal, local or other division of government, or any agency thereof, having or asserting jurisdiction with respect to any matter related to this Agreement.

1.5 “Hazardous Materials” mean any materials or substances: (i) which are present in quantities and in forms which require investigation, removal, cleanup, transportation, disposal, response or remedial action (as the terms “response” and “remedial action” are defined in Section 101 of the Comprehensive Environmental Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601 (23) and (24)) under any applicable federal, state or local environmental law, regulation, ordinance, rule or bylaw, as such are amended from time to time, whether existing as of the date hereof, previously enforced or subsequently amended (each hereafter an “Environmental Law”); or (ii) which are defined as “hazardous wastes,” “hazardous substances,” “pollutants” or “contaminants” under any Environmental Law.

1.6 “Losses” mean any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys’ fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs resulting from: (i) loss of or damage to the property of any Party or Third Person; (ii) death or personal injury to the agents of any Party or to any Third Person; or (iii) the cleanup or other requirements regarding any incident involving Hazardous Materials. The term “Losses” shall not include any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys’ fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs excluded from Licensee’s indemnification obligations and assumed by UTA pursuant to Sections 8.1 and 8.2 of this Agreement.

1.7 “Maintain” and “Maintenance” mean the performance of any repair, restoration, rehabilitation, refurbishment, retrofitting, inspection, monitoring, observation, testing, or similar work with respect to the Parking Lot (or any improvements to the Parking Lot) in or otherwise materially affecting the UTA Property.

1.8 “Master Interlocal Agreement” means that certain Master Interlocal Agreement Regarding Fixed Guideway Systems Located Within Railroad Corridors, effective February 13, 2004, entered by and among UTA and the various municipalities and counties within which UTA’s rights of way are situated.

1.9 “Parking Lot Encroachment” means the pavement and other parking-related improvements constructed or installed in the Encroachment Area. The term “Parking Lot Encroachment” shall also apply to any and all rearrangements, modifications, reconstruction, relocations, removals and extensions or additions concerning the Parking Lot Encroachment that are authorized and approved by UTA pursuant to this Agreement.

1.10 “Party” and “Parties” mean UTA or Licensee, and UTA and Licensee, respectively.

1.11 “Third Person” means any individual, corporation or legal entity other than UTA and Licensee.

1.12 “Track Improvements” mean any and all tracks, rails, ties, switches, frogs, end of track barricades or bumpers and other barricades or bumpers, derail devices, tie plates, spikes, wires, fastenings and any other appurtenances related thereto, drainage structures, grading, ballast, subgrade stabilization, crossings, tunnels, bridges, trestles, culverts, structures, facilities, leads, spurs, turnouts, tails, sidings, signals, crossing protection devices, communications systems or facilities, catenary systems and wires, poles and all other operating and non-operating appurtenances located within the UTA Property.

1.13 “UTA System” means any light rail, commuter rail, trolley, guided busway, or similar public transportation system constructed by UTA in the UTA Property as contemplated in the Master Interlocal Agreement.

1.14 “Utility” and “Utilities” mean and include all properties, facilities, utilities, crossings, encroachments, lines and similar appurtenances located within the UTA Property by permissive or prescriptive authority including, but not limited to, pipelines, tubelines, water and gas lines or mains, electrical conduits, ditches and other drainage facilities, wires, fiber optics, communication lines, sewer pipes, overhead wiring and supporting structures and appurtenances, and all similar installations.

1.15 “Work Window” means the time period designated by UTA during which Construction, Maintenance and any other work with respect to the Parking Lot within the UTA Property is permissible. UTA may, at any time and at UTA’s sole discretion, determine that the Work Window shall not be concurrent with any passenger operations within the UTA Property.

ARTICLE II GRANT OF LICENSE AND REAL ESTATE USAGE CHARGE

2.1 UTA customarily assesses a standard administrative fee reflecting the clerical, administrative and handling expense incurred in connection with the processing of this Agreement. The standard administrative fee has been waived consistent with the provisions of the Master Interlocal Agreement.

2.2 In consideration of the real estate usage charge to be paid by Licensee, and in further consideration of the covenants and agreements to be kept, observed and performed by

Licensee hereunder, UTA hereby grants Licensee a license to Construct, Maintain and operate the Parking Lot Encroachment in the location shown and in conformity with the dimensions and specifications indicated on the attached print dated 10/25/2012 and marked Exhibit "A" (Exhibit "A" is attached hereto and hereby incorporated into and made a part of this Agreement by reference). Subject to Paragraph 5.2 of this Agreement and **as per Exhibit "A" Licensee will construct a fence separating UTA's active Right of Way from the portion of the Right of Way being used for the Parking Lot.**

2.3 UTA further grants to Licensee the right to reasonably access the Encroachment Area from the Layton Station property for all activities necessary to carry out the purposes for which this License has been granted, specifically including construction of improvements on the Encroachment Area, provided that Licensee's access does not interfere with UTA's use of the Layton Station and provided further that Licensee restores any portion of the Layton Station affected by Licensee's use to the condition such property was in prior to entry by Licensee.

2.4 Licensee agrees to pay UTA a one-time real estate usage charge of **\$0.00** payable on or before the date of execution.

2.5 This License Agreement is conditioned on the provision that Licensee shall obtain all necessary permission from and comply with all the requirements of the Union Pacific Railroad Company.

ARTICLE III ACCESS TO THE UTA PROPERTY

3.1 Licensee shall have the right to access the Encroachment Area through the Parking Lot at any time. Licensee shall not have a right of access to any portion of the Right of Way located west of the fence to be installed by Licensee pursuant to this Agreement.

3.2 Except in the event of an emergency (as provided in Section 3.3 below), Licensee shall request permission from UTA at least ten days (or such shorter period as may be approved by UTA) prior to performing any Construction or Maintenance in or otherwise materially affecting the Right of Way west of the fence. Licensee's request to access the Right of Way west of the fence shall be specific as to the time, date and activities for which Licensee seeks permission. The request shall also include a summary of the method and manner in which the Construction or Maintenance will be performed. As part of the application process, UTA may require Licensee (and its contractors or other agents seeking access to the UTA Property) to attend any track access coordination meetings, safety training or other instruction as may be deemed necessary by UTA. Once granted, UTA's permission to enter the UTA Property shall be formalized in writing and delivered to Licensee. After permission has been granted, Licensee shall comply with all conditions, instructions and requirements of such permit and with all instructions or directions given by UTA including, if required, daily telephone notification to the applicable rail dispatch center prior to each entry into the UTA Property. All contact with UTA shall be coordinated through the person designated by UTA from time to time as set forth in Article XVI of this Agreement. Provided that Licensee complies with the provisions of this Section, UTA agrees not to unreasonably withhold, condition, or delay its approval of Licensee's request.

**ARTICLE IV
CONSTRUCTION AND MAINTENANCE OF THE PARKING LOT**

4.1 All Construction and Maintenance with respect to the Parking Lot Encroachment shall be performed to the reasonable satisfaction of UTA and in accordance with the conceptual, engineering and/or design plans (“Design Plans”) previously approved by UTA and attached hereto as Exhibit “A.” All Construction and Maintenance with respect to the Parking Lot Encroachment shall be performed in a workmanlike manner, in compliance with all applicable industry standards and in compliance with the requirements of any applicable Governmental Authority. UTA may impose reasonable requirements in addition to or more stringent than industry or legal standards if UTA deems such requirements necessary for the safety of operations conducted in the UTA Property. UTA may also require additional fabrication methods, staging requirements or other precautions. All Construction and Maintenance with respect to the Parking Lot Encroachment shall be performed during the designated Work Window. UTA shall have the right, but not the obligation, to observe any and all work performed in or otherwise materially affecting the UTA Property in connection with the Parking Lot Encroachment to ensure that such work is performed in accordance with the requirements set forth in this Agreement. In its Construction or Maintenance of the Parking Lot Encroachment, Licensee shall not make any material deviation from the Design Plans without UTA’s prior written approval. Licensee shall submit to UTA plans setting out the method and manner of handling all work to be performed around the Track Improvements including, without limitation, the shoring and cribbing, if any, required to protect the operations of UTA, the Freight Operator or the owner of any adjacent tracks. Licensee shall not proceed with any such work until Licensee’s proposed methods have been approved by UTA. The Parking Lot Encroachment shall be placed at the distance acceptable to UTA and shall not interfere with any Track Improvements. The Parking Lot Encroachment shall maintain a side clearance that is as great as reasonably possible but in no event less than ten (10) feet from the center line of any rail.

4.2 Various Utilities exist on, over and under the surface of the UTA Property. Prior to commencing any Construction or Maintenance with respect to the Parking Lot Encroachment, Licensee shall properly investigate and determine the location of all such Utilities. In addition to the required investigation, Licensee shall have all Utilities in the area of the Parking Lot “blue-staked” and clearly marked prior to any excavation. Licensee shall make arrangements for the protection of all Utilities and shall commence no excavation, boring or other penetration in the UTA Property until all such protection has been accomplished.

4.3 Fiber optic cable systems may be buried in the UTA Property. Protection of the fiber optic cable systems is of extreme importance since any break could disrupt service to users resulting in business interruption and loss of revenue and profits. Licensee shall be solely responsible for contacting UNION PACIFIC RAILROAD COMPANY during normal business hours (7:00 a.m. to 9:00 p.m. Central Time, Monday through Friday, except holidays) at 1-800-336-9193 (also a 24-hour, 7-day number for emergency calls) and for determining if fiber optic cable is buried near the location of the Parking Lot Encroachment. If so, Licensee will contact the telecommunications company(ies) involved, make arrangements for a cable locator and, if applicable, make arrangements for relocation or other protection of the fiber optic cable. Licensee shall not commence any work until all such protection and/or relocation have been accomplished. Licensee shall be solely responsible for all coordination with Union Pacific and any telecommunications companies. In coordinating the relocation or protection of fiber optic cable, Licensee shall not rely on any statements, engineering drawings or other oral or written representations of UTA or its representatives. In addition to other indemnity provisions in this Agreement, Licensee shall indemnify, defend and hold the UTA Indemnitees (as defined in

Section 8.1 of this Agreement) harmless from and against all Losses arising out of: (a) any damage to or destruction of any telecommunications system proximately caused by any Construction, Maintenance or other work performed by Licensee or its agents relative to the Parking Lot Encroachment; and/or (b) any injury to or death of any person employed by or on behalf of any telecommunications company proximately caused by any Construction, Maintenance or other work performed by Licensee or its agents relative to the Parking Lot. Except to the extent that liability is assumed by UTA as set forth in Sections 8.1 and 8.2 of this Agreement, Licensee shall not have or seek recourse against UTA for any claim or cause of action for alleged loss of profits or revenue or loss of service or other consequential damage to a telecommunication company using UTA's UTA Property or a customer or user of services of the fiber optic cable on UTA's UTA Property.

4.4 Licensee shall be solely responsible for obtaining any property rights, easements, licenses, rights of way or other permission from Third Persons (collectively "Third Person Property Rights") as may be necessary to Construct, Maintain or operate the Parking Lot Encroachment including, without limitation, any needed permission from the owner of any adjacent railroad corridor. Licensee shall also be solely responsible for obtaining any necessary franchises, permits or other necessary approvals from Governmental Authorities (collectively "Approvals"). Licensee agrees to pay any and all costs and expenses relating to such Third Person Property Rights or Approvals, and to assume any and all liability therefore.

4.5 Except as authorized in this Agreement or as may be immediately required for (and only at the actual time of) performance of any Construction or Maintenance contemplated under this Agreement, and then only in full compliance with all clearance standards and other safety requirements, Licensee shall not place, permit to be placed, erect, pile, store, stack, park, suffer or permit any line, building, platform, fence, gate, vehicle, car, pole, or other structure, obstruction, or material of any kind within the UTA Property.

4.6 Licensee shall Construct, Maintain and operate the Parking Lot Encroachment in compliance with all requirements imposed by any Governmental Authority including, without limitation, the requirements of the Federal Railroad Administration, the Occupational Safety and Health Administration and the Utah Department of Transportation. Licensee shall also Construct, Maintain and operate the Parking Lot Encroachment in compliance with all applicable environmental laws. Licensee shall take all suitable precautions to prevent any leakage or other interference with the operation of the Track Improvements or any other UTA or Third Person installations or facilities. If for any reason the Construction of the Parking Lot Encroachment causes interference with the operation of Track Improvements or any other UTA or Third Person installations or facilities existing prior to the Construction of the Parking Lot Encroachment, Licensee shall, upon notification by UTA and at Licensee's sole cost and expense, take such action as is necessary to eliminate the interference.

4.7 If a contractor is to perform any Construction or Maintenance contemplated in this Agreement, then the Licensee shall cause its contractor to comply with all applicable provisions of this Agreement. Additionally, Licensee shall require its contractor to execute UTA's form Contractor's Right of Entry Agreement (the "Contractor Agreement. Any and all contractors used by Licensee in the Construction or Maintenance of the Parking Lot Encroachment are subject to the approval of UTA, which approval shall not be unreasonably withheld, conditioned or delayed.

ARTICLE V
CONSTRUCTION OBSERVATION BY UTA – LICENSEE TO BEAR ALL COSTS

5.1 In connection with any Construction or Maintenance performed pursuant to this Agreement, UTA may, in its sole discretion, determine that flaggers, inspectors (technical or special), monitors, observers, safety personnel or other persons are required given the nature of the Construction or Maintenance to be performed. UTA will provide any such necessary personnel and Licensee shall, within 30 days, reimburse UTA for the reasonable costs thereby incurred. The current cost of flagging is \$688.84/day for an eight (8) hour day and \$921.83/day for a (12) hour day. The current cost for a special inspector is \$70.22/hour with a two hour daily minimum. Time spent by UTA staff for administration, coordination, and engineering review are not subject to billing.

5.2 Notwithstanding the preceding paragraph, Licensee and UTA understand and agree that the initial Construction of the Parking Lot Encroachment will be performed by a contractor procured by UDOT, and that UDOT will be responsible for the costs of flagging or other construction observation incurred by UTA in connection with the initial Construction of the Parking Lot Encroachment.

ARTICLE VI
LICENSEE TO BEAR ALL COSTS RELATED TO PARKING LOT

Except as otherwise set forth in the Master Interlocal Agreement, or in Article V, Sections 7.1 and 8.1 of this Agreement, Licensee shall be solely responsible for any and all costs incurred with respect to any Construction, Maintenance or other work related to the Parking Lot.

Notwithstanding the foregoing, Licensee and UTA understand and agree that the initial Construction of the Parking Lot Encroachment will be performed by a contractor procured by UDOT, and that UDOT will be responsible for the costs of such Construction.

ARTICLE VII
SUBORDINATION OF RIGHTS GRANTED - RELOCATION OF PARKING LOT

7.1 The rights granted pursuant to this Agreement shall be subject and subordinate to the prior and continuing right and obligation of UTA to fully use the UTA Property, including the right and power of UTA to construct, maintain, repair, renew, use, operate, modify, or relocate new or existing Track Improvements upon, along, above, or across any or all parts of the Right of Way and other UTA property, all or any of which may be freely done at any time or times by UTA. The grant of license for the Parking Lot Encroachment is made without covenants of title or quiet enjoyment. UTA makes no warranties, either express or implied, regarding the nature, extent or status of its title to the UTA Property or regarding the existence or nonexistence of Third Person rights which may be superior to the license granted pursuant to this Agreement. Licensee and UTA agree that Licensee shall have the right and authority to establish and enforce reasonable parking restrictions within the Parking Lot Encroachment as Licensee sees fit. Said parking restrictions shall not apply to any UTA employees, agents or assigns working within the scope of their employment or contract.

7.2 Licensee shall, within 60 days after receipt of written notice from UTA, modify or relocate (or, if agreed between the Parties, allow UTA to modify or relocate) all or any portion of the Parking Lot Encroachment as UTA may reasonably designate. To the extent that the modification or relocation of the Parking Lot Encroachment is necessitated by the construction,

reconstruction, modification or relocation of any UTA System, UTA shall be responsible for the costs of such relocation. To the extent that the modification or relocation of the Parking Lot Encroachment is necessitated because the Parking Lot Encroachment is conflicting with or causing interference with any UTA or Third Person Track Improvements or Utilities existing prior to the Construction of the Parking Lot Encroachment, then Licensee shall be responsible for the costs of such relocation. All the terms, conditions and stipulations herein expressed with reference to the Parking Lot Encroachment in the location described herein shall, so far as the Parking Lot Encroachment remains on UTA property, apply to the Parking Lot Encroachment as modified or relocated pursuant to this Section.

7.3 The foregoing grant is also subject to the outstanding superior rights previously conveyed or granted to Third Persons by UTA, or its predecessors in interest, and the right of UTA to renew and extend the same.

ARTICLE VIII INDEMNITY AND RELEASE

8.1 Licensee agrees to protect, defend, release, indemnify and hold harmless UTA, and any successors, contractors, officers, directors, agents and employees of UTA (the "UTA Indemnitees"), from and against any and all Losses resulting from: (a) negligence on the part of Licensee, or any employees, principals, contractors or agents of Licensee, in conjunction with any Construction, Maintenance or other work performed by or on behalf of Licensee with respect to the Parking Lot; (b) negligence on the part of Licensee, or any employees, principals, contractors or agents of Licensee, in the use or operation of the Parking Lot; (c) injuries, death or property damage occurring from the use of the Encroachment Area by Licensee or its agents or invitees; or (d) Licensee's breach of any provision of this Agreement. Notwithstanding the foregoing, Licensee shall not be required to indemnify UTA for, and UTA hereby assumes responsibility for, any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys' fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs that are proximately caused by the negligence, recklessness or willful misconduct of UTA with respect to the construction, maintenance or operation of any UTA System.

8.2 Licensee acknowledges that the UTA Property may be subject to prospective purchaser agreements and covenants not to sue that UTA has entered with the Utah Department of Environmental Quality and the United States Environmental Protection Agency. Pursuant to such agreements, UTA is required to characterize any excavated soil that appears to contain (or has the potential to contain) Hazardous Materials and to handle and dispose of any such soil in compliance with applicable state and federal laws. Under these agreements, UTA is not required to excavate any soil except as required for construction related to the installation of a UTA System. Accordingly, any excavation that Licensee performs with respect to the Parking Lot exposes UTA to potential environmental liability that would not otherwise be present. As consideration for the rights granted to Licensee hereunder, Licensee agrees to assume all potential liability and responsibility for, and to indemnify and hold UTA harmless with respect to, any Losses related to the characterization and removal of any Hazardous Materials discovered during Construction or Maintenance. Licensee agrees to perform any such characterization and removal in full compliance with all applicable state and federal environmental laws. Notwithstanding the foregoing, Licensee shall not be required to indemnify UTA for, and UTA hereby assumes responsibility for, any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys' fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs related to any Hazardous Materials discovered as the

result of modification or relocation work performed by or on behalf of Licensee in conjunction with the construction, reconstruction, modification or relocation of any UTA System. To the extent that either Party actually causes a release of Hazardous Materials into the UTA Property, such party shall be responsible for the characterization and removal of such Hazardous Materials and shall indemnify the other Party with respect to all losses resulting therefrom.

8.3 Licensee hereby releases UTA from, and agrees not to seek recourse against UTA with respect to, any claims, damages, fees, expenses or other losses proximately caused by Third Persons including, without limitation, Third Persons having licenses or other interests in the UTA Property. Nothing contained herein shall be construed or deemed to be a release of any Third Persons by Licensee.

8.4 The provisions of this Article shall survive the termination of this Agreement.

ARTICLE IX CLAIMS AND LIENS FOR LABOR AND MATERIALS; TAXES

9.1 Licensee shall fully pay for all materials joined or affixed to the UTA Property in connection with the Parking Lot Encroachment, and for all labor performed with respect to the Parking Lot Encroachment. Licensee shall not permit or suffer any mechanic's or materialman's lien of any kind or nature to be enforced against the property for any work done or materials furnished thereon at the instance or request or on behalf of Licensee.

9.2 Licensee shall promptly pay or discharge all taxes, charges and assessments assessed or levied upon, in respect to, or on account of the Parking Lot Encroachment to prevent the same from becoming a charge or lien upon the UTA Property and so that any taxes, charges and assessments levied upon or with respect to such property shall not be increased because of the Parking Lot Encroachment or any improvements, appliances, or fixtures connected therewith.

ARTICLE X TERMINATION

10.1 UTA may terminate this Agreement if: (a) Licensee ceases to use the Parking Lot Encroachment in an active and substantial way for any continuous period of 1 year; (b) Licensee continues in default with respect to any provision of this Agreement for a period of 30 days after UTA delivers written notice to Licensee identifying the nature of Licensee's breach of this Agreement; provided, however that if the nature of Licensee's breach is such that it cannot be cured within such 30-day period, Licensee shall not be deemed in default if Licensee commences to cure the breach within 30 days and thereafter diligently continues to remedy the breach; or (c) Licensee removes the Parking Lot Encroachment from the UTA Property.

10.2 Termination of this Agreement for any reason shall not affect any of the rights, obligations or liabilities that have accrued prior to or concurrent with such termination.

ARTICLE XI INSURANCE

11.1 During the life of this Agreement, Licensee shall, at its sole cost and expense, obtain and maintain the insurance described in Exhibit "B" (Exhibit "B" is attached hereto and hereby incorporated into and made a part of this Agreement by reference). Licensee will also provide to UTA a Certificate of Insurance, identifying UTA Contract Number SO/D/2362/A

issued by its insurance carrier confirming the existence of such insurance and indicating that the policy or policies contain the following endorsement:

“Utah Transit Authority is named as an additional insured with respect to all liabilities arising out of the existence, use or any work performed on or associated with the Parking Lot being located on railroad Right of Way and Layton Station at Mile Post N22.54 at or near Layton City, Davis County, Utah”

11.2 Failure to maintain insurance as required shall entitle, but not require UTA to terminate this License immediately.

11.3 If Licensee is a public entity subject to any applicable statutory governmental immunity laws, the limits of insurance described in Exhibit “B” shall be the limits the Licensee then has in effect or that are required by applicable current or subsequent law, whichever is greater, a portion of which may be self insured with the consent and approval of UTA. Licensee does not waive any of its rights of entitlements to governmental immunity and limitations on liability to Third Persons under the Utah Governmental Immunity Act.

11.4 Licensee hereby acknowledges that it has reviewed the requirements of Exhibit “B”, including without limitation the requirement for Railroad Protective Liability Insurance during construction, maintenance, installation, repair or removal of the Parking Lot Encroachment which is the subject of this Agreement.

ARTICLE XII REMOVAL OF PARKING LOT UPON TERMINATION OF AGREEMENT

Upon termination of this Agreement pursuant to Article X hereof, Licensee shall, if requested in writing by UTA and at Licensee’s sole cost and expense, remove the Parking Lot Encroachment from the UTA Property and shall restore, to the satisfaction of UTA, such portions of the UTA Property to at least as good a condition as such were in at the time that Licensee first entered the UTA Property. If Licensee fails to do the foregoing within a reasonable time, UTA may, at its option, perform such removal and restoration work at the expense of Licensee. Licensee shall reimburse UTA for the costs incurred in any restoration or removal work performed under this Article within 30 days after receipt of the bill therefore. In the event UTA removes the Parking Lot pursuant to this Article, UTA shall in no manner be liable to the Licensee for any damage sustained by Licensee for or on account thereof, and such removal and restoration shall in no manner prejudice or impair any other right of action, including the recovery of damages, that UTA may have against the Licensee. The provisions of this Article shall survive the termination of this Agreement.

ARTICLE XIII ASSIGNMENT

Licensee may not assign this Agreement, in whole or in part, or any rights herein granted, without UTA’s written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Licensee may assign this Agreement and its rights hereunder as part of a consolidation with an entity that: (a) is a successor governmental entity to Licensee; (b) is annexed with, merged into or consolidated with Licensee; or (c) that acquires substantially all of the assets of Licensee provided, however, that in any of the above instances such entity seeking an assignment under this Article must, as a condition to such assignment, assume all terms and conditions of this Agreement without limitation.

It is understood and agreed UDOT will engage a contractor to perform the initial Construction of the Parking Lot Encroachment. Such contractor will need to execute UTA's form Contractor's Right of Entry Agreement, but UTA will not require UDOT to obtain a separate license agreement from UTA.

**ARTICLE XIV
SUCCESSORS AND ASSIGNS**

Subject to the provisions of Article XIII, this Agreement shall be binding upon and inure to the benefit of the Parties hereto, their officers, employees, representatives, successors and assigns.

**ARTICLE XV
SEVERABILITY**

This Agreement is executed by the Parties under current interpretation of any and all applicable federal, state, county, municipal, or other local statutes, ordinances, or laws. Furthermore, each and every separate division hereof shall have independent and severable status from each other division, or combination thereof, for the determination of legality, so that if any separate division herein is determined to be unconstitutional, illegal, violative of trade or commerce, in contravention of public policy, void, invalid or unenforceable for any reason, that separate division shall be treated as a nullity but such holding or determination shall have no effect upon the validity or enforceability of each and every other division, or other combination thereof.

**ARTICLE XVI
NOTICES**

Except as specifically provided elsewhere in this Agreement, all notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the addresses set forth herein. Addresses for notice may be changed by giving ten (10) days written notice of the change in the manner set forth herein.

If to UTA:

Utah Transit Authority
Attn: Property Manager
P.O. Box 30810
Salt Lake City, UT 84130-0810

With a Copy to:

Utah Transit Authority
Attn: General Counsel
P.O. Box 30810
Salt Lake City, UT 84130-0810

If to Licensee:

Layton City
Attn: City Manager
437 N Wasatch Dr.
Layton City, UT 84041

**ARTICLE XVII
NO IMPLIED WAIVER**

The waiver by UTA of the breach by Licensee of any condition, covenant or agreement herein contained shall not impair any future ability of UTA to avail itself of any remedy or right set forth in this Agreement. Neither the right of supervision by UTA, nor the exercise or failure to exercise such right, nor the approval or failure to disapprove, nor the election by UTA to repair or reconstruct all or any part of the work contemplated by this Agreement shall be deemed a waiver of any of the obligations of Licensee contained or set forth in this Agreement.

**ARTICLE XVIII
ENTIRE AGREEMENT - COUNTERPARTS**

This Agreement 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. Any amendment to this Agreement must be in writing and executed by an authorized representatives of each Party. This Agreement 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 this Agreement may be detached from any counterpart and reattached to any other counterpart hereof. The facsimile transmission of a signed original of this Agreement or any counterpart hereof and the retransmission of any signed facsimile transmission hereof shall be the same as delivery of an original.

**ARTICLE XIV
SPECIAL PROVISIONS**

Special provisions, if any, are included in the attached Exhibit "C" (Exhibit "C" is attached hereto and hereby incorporated into and made a part of this Agreement by reference).

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate as of the date first herein written.

UTAH TRANSIT AUTHORITY

Reviewed and Approved as to Form for UTA

UTA Engineering

By: _____
Paul Edwards
Senior Program Manager

UTA Legal

By: _____
Mailia Lauto'o
Manager, Property Administration

ATTEST

LICENSEE

By: _____
Thieda Wellman, Agency Secretary

By: _____
J. Stephen Curtis, Chair

Approved as to Form

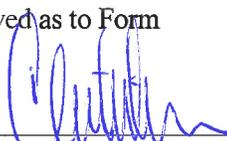
For: By:  _____
Gary Crane, Agency Attorney

EXHIBIT "A"
DESIGN PLANS

[Insert engineering drawings showing the proposed crossing including proposed construction methods, shoring and cribbing requirements and milepost location]

EXHIBIT "B"
INSURANCE REQUIREMENTS

Licensee shall, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

- A. **Commercial General Liability Insurance:** Policy providing coverage for death, personal injury and property damage with a combined single limit of at least \$2,000,000 each occurrence or claim and an aggregate limit of at least \$4,000,000. The policy shall contain broad form contractual liability insurance covering the indemnity obligations assumed by Licensee in the Agreement. Exclusions for railroads (except where the Parking Lot is in all places more than 50 feet from any railroad tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed. Coverage provided on a "claims made" form shall provide for at least a two-year extended reporting and discovery period if (a) the coverage changes from a claims made form to an occurrence form, (b) there is a lapse/cancellation of coverage, or (c) the succeeding claims made policy retroactive date is different for the expiring policy.
- a. 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.
- B. **Automobile Liability Insurance:** Policy providing bodily injury, property damage and uninsured vehicles coverage with a combined single limit of at least \$2,000,000 each occurrence or claim. This insurance shall cover all motor vehicles including hired and non-owned, and mobile equipment if excluded from coverage under the commercial general liability insurance.
- C. **Worker's Compensation and Employer's Liability Insurance:** Policy covering Licensee's statutory liability under the laws of the State of Utah. If Licensee is self-insured, evidence of State approval must be provided.
- D. **Railroad Protective Liability Insurance:** Licensee must maintain "Railroad Protective Liability" insurance on behalf of UTA only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000.
- a. The definition of "JOB LOCATION" AND "WORK" on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this agreement.
- E. **Umbrella or Excess Insurance:** If Licensee utilizes umbrella or excess policies, and these policies must "follow form" and afford no less coverage than the primary policy.
- F. **Other Insurance Provisions:**
- a. Licensee and their insurers shall endorse the required insurance policy(ies) to waive their right of subrogation against UTA. Licensee's insurance shall be primary with respect to any insurance carried by UTA. Contractor

will furnish UTA at least 30 days advance written notice of any cancellation or non-renewal of any required coverage that is not replaced.

- b. The required insurance policy(ies) shall be written by a reputable insurance company with a current AM Best's Insurance Guide Rate of A better, or as may otherwise be acceptable to UTA. Such insurance company shall be authorized to transact business in the State of Utah.
- c. The fact that insurance is obtained by Licensee shall not be deemed to release or diminish the liability of Licensee including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by UTA shall not be limited by the amount of the required insurance coverage.

**SUBMITTING REQUESTS FOR
RAILROAD PROTECTIVE LIABILITY INSURANCE**
(\$2,000,000 per occurrence/ \$6,000,000 aggregate)

Application forms for inclusion in Utah Transit Authority's Blanket Railroad Protective Liability Insurance Policy may be obtained from a Property Administrator or on the website listed below.

If you have questions regarding railroad protective insurance (i.e. premium quotes, application) please contact David Pitcher at:

Phone: (801) 287-2371

Email: dcpitcher@rideuta.com

Website: <http://www.rideuta.com/mc/?page=DoingBusiness-PropertyManagement>

Send Checks and Applications to the following address:

Utah Transit Authority
Attn: David Pitcher
3600 South 700 West
P.O. Box 30810
Salt Lake City, UT 84130-0810

EXHIBIT "C"
SPECIAL PROVISIONS

TRACK ACCESS

Licensee or Licensee's contractor must first obtain a Track Access Permit from UTA before any access will be allowed on UTA property. The contact person for obtaining a Track Access Permit is **Commuter Rail Dispatch** at **(801) 287-5455** or you can visit our website at the below listed website.

<http://www.rideuta.com/mc/?page=DoingBusiness-PropertyManagement>

Note: Track Access Permits will not be issued without first having an executed License Agreement with UTA and UTA having received proof of insurance as provided in the License Agreement.

CROSS PARKING

UTA and Layton City reserve the right to limit parking in their respective parking lots to their own customers, patrons, and invitees. The Parties recognize and agree, however, that there may be times when one or the other parking lot is not being fully utilized, and that drivers will naturally use the most convenient parking stalls available, whether such stalls are on Layton City property or UTA property. The Parties agree to allow such informal cross-parking use until such time as it is deemed necessary to restrict such use, whether by signage designating exclusive use, by ticketing, or by some other method. The Parties will coordinate with each other before imposing any such restrictions.