

Regular Meeting of the  
**Board of Trustees of the Utah Transit Authority**

Wednesday, April 10, 2019, 9:00 a.m.  
Utah Transit Authority Headquarters  
669 West 200 South, Salt Lake City, Utah  
Golden Spike Conference Rooms



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|--|----------------------------------|
| <b>1. Call to Order &amp; Opening Remarks</b>  | <b>Chair Carlton Christensen</b> |
| <b>2. Pledge of Allegiance</b>   | <b>Chair Carlton Christensen</b> |
| <b>3. Safety First Minute</b>  | <b>Sheldon Shaw</b>              |
| <b>4. Public Comment Period</b>  | <b>Bob Biles</b>                 |
| <b>5. Approval of March 27, 2019 Board Meeting Minutes</b>   | <b>Chair Carlton Christensen</b> |
| <b>6. Agency Report</b>  | <b>Steve Meyer</b>               |
| <b>7. R2019-04-01 Approving International Travel to the American Public Transportation Association's 2019 International Rail Rodeo</b>   | <b>Eddy Cumins</b>               |
| <b>8. R2019-04-02 Approving the Execution of an Interlocal Cooperation Agreement with Salt Lake County to Perform a Transit Alternative Analysis in the Point of the Mountain Area</b> | <b>Eddy Cumins</b>               |
| <b>9. R2019-04-03 Authorizing Property Right of Way Acquisition for Provo-Orem BRT</b>   | <b>Paul Drake</b>                |
| <b>10. Contracts &amp; Pre-procurements</b>  |                                  |
| a. Contract: Indemnification Agreement (Sandy Towers East)   | Paul Drake                       |
| b. Change Order: Legal Services (Multiple)   | Steve Meyer                      |
| c. Pre-procurement: Point of the Mountain Alternatives Analysis  | Steve Meyer                      |
| <b>11. Other Business</b>  | <b>Chair Carlton Christensen</b> |
| a. Next meeting: April 17, 2019 at 9:00 a.m.   |                                  |
| <b>12. Adjourn</b>   | <b>Chair Carlton Christensen</b> |

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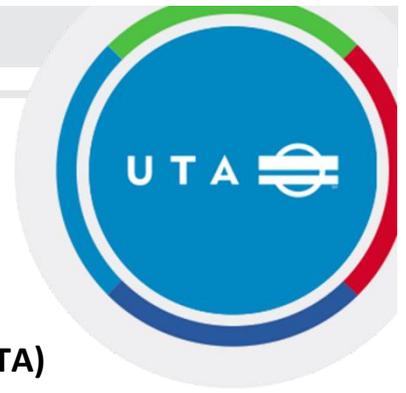
**Public Comment:** Members of the public are invited to provide comment during the public comment period. Comment may be provided in person or online through [www.rideuta.com](http://www.rideuta.com). In order to be considerate of time and the agenda, comments are limited to 2 minutes per individual or 5 minutes for a designated spokesperson representing a group. Comments may also be sent via e-mail to [boardoftrustees@rideuta.com](mailto:boardoftrustees@rideuta.com).

**Special Accommodation:** Information related to this meeting is available in alternate format upon request by contacting [calldredge@rideuta.com](mailto:calldredge@rideuta.com) or (801) 287-3536. Request for accommodations should be made at least two business days in advance of the scheduled meeting.

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**Don't let April Showers bring you hospital flowers.  
Stay alert when driving in wet conditions.**





**Minutes of the Meeting  
of the  
Board of Trustees of the Utah Transit Authority (UTA)  
held at UTA FrontLines Headquarters located at  
669 West 200 South, Salt Lake City, Utah  
March 27, 2019**

**Board Members Present:**

Carlton Christensen, Chair  
Beth Holbrook  
Kent Millington

Also attending were members of UTA staff, as well as interested citizens and members of the media.

**Call to Order, Opening Remarks, and Pledge of Allegiance.** Chair Christensen welcomed attendees and called the meeting to order at 9:01 a.m. with three board members present. Following Chair Christensen's opening remarks, the board and meeting attendees recited the Pledge of Allegiance.

**Safety First Minute.** Chair Christensen yielded the floor to Sheldon Shaw, UTA Safety Manager, for a brief safety message.

**Public Comment Period.** No public comment was given.

**Approval of March 20, 2019 Board Meeting Minutes.** A motion to approve the March 20, 2019 Board Meeting Minutes was made by Trustee Millington and seconded by Trustee Holbrook. The motion carried unanimously.

**Agency Report.** Steve Meyer, UTA Interim Executive Director, provided an update on the Sharp/Tintic connection project, which is being done in partnership with the Utah Department of Transportation (UDOT), Spanish Fork, and Springville. The project realigns the configuration between the Sharp and Tintic rail lines, eliminating five at-grade crossings. A federal aid grant has been secured to help fund the project and UTA is the grantee. A cooperative agreement is currently being circulated to formalize the local match. One of the provisions in the cooperative

agreement is that any overages will be evenly split among UTA, Spanish Fork, and Springville. Discussion ensued. Questions on the future FrontRunner alignment, location of potential rail trails, and portion of the Tintic line to be eliminated were posed by the board and answered by Mr. Meyer.

As part of his agency report, Mr. Meyer also mentioned that Sheldon Shaw was recently given an award for making community presentations through the Operation Lifesaver program.

**R2019-03-05 Designating Transit-Oriented Development Sites.** Paul Drake, UTA Senior Manager of Real Estate & Transit-Oriented Development, and Kevin Leo, UTA Transit-Oriented Development Project Specialist I, summarized the transit-oriented development (TOD) site selection system analysis results. Discussion ensued. Questions on the ranking tool filter eliminating more urbanized sites in the growth opportunity category, scoring approach on the site selection results, and comprehensiveness of the sites included in the rankings were posed by the board and answered by Mr. Drake. It was noted that the rankings presented in the meeting only included sites with UTA-owned property. Trustee Holbrook recommended approaching communities with private property that might be appropriate for TOD to discuss opportunities for leveraging potential development with the nearby transit infrastructure.

A motion to approve R2019-03-05, and designate Salt Lake Central/North Temple Station, Ogden Central, and Clearfield Station as UTA TOD sites, was made by Trustee Holbrook and seconded by Trustee Millington. The motion carried unanimously with aye votes from Trustee Holbrook, Trustee Millington, and Chair Christensen.

#### **Contracts and Disbursements.**

**Contract: Depot District Hazardous Materials Management (Wasatch Environmental).**

Eddy Cumins, UTA Chief Operating Officer, and Patti Garver, UTA Program Manager of Environmental, Grants & Project Controls, explained the purpose of the contract, which allows for hazardous materials remediation during construction of the Depot District bus maintenance facility. Discussion ensued. A question on whether the price associated with the contract scope was an internal or external estimate was posed by the board and answered by staff.

A motion to approve the contract was made by Trustee Millington and seconded by Trustee Holbrook. The motion carried unanimously with aye votes from Trustee Millington, Trustee Holbrook, and Chair Christensen.

**Contract: Depot District Cultural Resource Consultation (SWCA).** Mr. Cumins described the purpose of the contract, which defines terms for the oversight and mitigation of any

historical artifact discoveries during construction of the Depot District bus maintenance facility. Discussion ensued. Questions on cultural relics discovered during previous projects and required remediation were posed by the board and answered by staff.

A motion to approve the contract was made by Trustee Holbrook and seconded by Trustee Millington. The motion carried unanimously with aye votes from Trustee Holbrook, Trustee Millington, and Chair Christensen.

**Change Order: TIGER Phase 2 Amendment 6 – Summit County Bike Share (Granite Construction).** Mr. Cumins summarized the change order, which authorizes construction of eleven bike share docking stations in Summit County. The bike share stations are one of 94 projects designated in the TIGER program of projects. Discussion ensued. Questions on the local match, contracting process for the TIGER project, number of TIGER projects to which funds have been committed, and arrangement with the general contractor were posed by the board and answered by Mr. Cumins and Heather Bening, UTA Project Manager II.

A motion to approve the change order was made by Trustee Millington and seconded by Trustee Holbrook. The motion carried unanimously with aye votes from Trustee Millington, Trustee Holbrook, and Chair Christensen.

#### **Discussion Items.**

**Future of FrontRunner (Part 3 of 3).** Mr. Meyer, Ted Knowlton with the Wasatch Front Regional Council (WFRC), and Shawn Seager with the Mountainland Association of Governments (MAG), delivered a presentation on FrontRunner's place in regional transportation plans. The presentation addressed topics such as the planning process, plan phasing, FrontRunner phasing, and next steps. Discussion ensued. Questions on the existence of unified plans in other cities or states, local feedback on sales tax reform, parameters for growth expectations, accuracy of projections over time, and communication of funding gaps to policymakers were posed by the board and answered by the presenters.

Chair Christensen called for a brief recess at 10:09 a.m.

The meeting resumed at 10:17 a.m.

**2019 Executive Team Performance Targets.** Mr. Meyer and the UTA executive team presented their proposed 2019 performance targets. Mr. Meyer summarized key agency objectives and then the executives spoke about specific targets in their areas of focus supporting the objectives. Discussion ensued. Questions on turnover costs, hubometer

miles, effects on the budget from bus bridges, parts availability, predictive analysis for anticipated parts needs, acceptable timelines for out of service vehicles, retirement projections for managers, and engaging the customer base to promote transit use were posed by the board and answered by staff. Trustee Millington suggested working with UDOT to implement transit use training in conjunction with driver's education training.

**Other Business.**

**Next Meeting.** The next meeting of the board will be on Wednesday, April 10, 2019 at 9:00 a.m.

**Adjournment.** The meeting was adjourned at 11:07 a.m. by motion.

Transcribed by Cathie Griffiths  
Executive Assistant to the Board Chair  
Utah Transit Authority  
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801.237.1945

*This document is not intended to serve as a full transcript as additional discussion may have taken place; please refer to the meeting materials, audio, or video located at <https://www.utah.gov/pmn/sitemap/notice/523731.html> for entire content.*

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

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE UTAH TRANSIT AUTHORITY  
APPROVING INTERNATIONAL TRAVEL TO THE  
AMERICAN PUBLIC TRANSPORTATION ASSOCIATION'S  
2019 INTERNATIONAL RAIL RODEO**

R2019-04-01

April 10, 2019

WHEREAS, the Utah Transit Authority (the "Authority") is a public transit district organized under the laws of the State of Utah and was created to transact and exercise all of the powers provided for in the Utah Limited Purpose Local Government Entities – Local Districts Act and the Utah Public Transit District Act;

WHEREAS, Board Executive Limitations Policy No. 2.3.1 requires the Board to approve any international travel of the Authority's employees for Authority business; and

WHEREAS, the Authority desires to send nine employees to represent it and participate in the American Public Transportation Association International Rail Rodeo and Conference in Toronto, Ontario on June 20 – 23, 2019.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees ("Board") of the Authority:

1. That the Board hereby authorizes nine UTA employees, to travel to the American Public Transportation Association International Rail Rodeo and Conference scheduled for June 20 – 23, 2019 in Toronto, Ontario.
2. That the Board hereby ratifies any and all actions taken by the Authority's Interim Executive Director and staff in furtherance of and effectuating the intent of this Resolution.
3. That the corporate seal be attached hereto.

Approved and adopted this 10<sup>th</sup> day of April, 2019.

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Carlton Christensen, Chair  
Board of Trustees

ATTEST:

(Corporate Seal)

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Robert K. Biles, Secretary/Treasurer

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE UTAH  
TRANSIT AUTHORITY APPROVING THE EXECUTION OF AN  
INTERLOCAL COOPERATION AGREEMENT WITH SALT LAKE  
COUNTY TO PERFORM A TRANSIT ALTERNATIVE ANALYSIS IN THE  
POINT OF THE MOUNTAIN AREA**

R2019-04-02

April 10, 2019

WHEREAS, Salt Lake County (the "County") and the Authority are "public agencies" as defined by the Utah Interlocal Cooperation Act, UTAH CODE ANN. §§ 11-13-101 *et seq.*, and, as such, are authorized by the Cooperation Act to each enter into an interlocal cooperation agreement to act jointly and cooperatively on the basis of mutual advantage;

WHEREAS, during the 2018 General Session, the State Legislature passed SB136, which amended Section 59-12-2219 of the Revenue and Taxation Code, Utah Code Ann. §§ 59-12-101 *et seq.*, to provide for implementation of a .25% increase in the County Sales Tax to be used by the County for certain transportation purposes (hereinafter "County Transportation Funds");

WHEREAS, the County desires to use the County Transportation Funds by financing all or a portion of the costs of regionally significant transportation facilities or public transit projects of regional significance throughout the County in accordance with Utah Code Ann. §59-12- 2219(11)(a)(ii) and all other applicable federal, state and local laws, rules and regulations;

WHEREAS, on January 8, 2019, the Salt Lake County Council authorized the Mayor to enter into an agreement with Draper City to perform a Transit Alternatives Analysis in the Point of the Mountain area to determine a Locally Preferred Alternative for rapid transit connections between Sandy City and Lehi City, including connections to the TRAX Blue Line, to the former Utah State Prison redevelopment site, and to the Draper FrontRunner Station;

WHEREAS, Draper City requested to allow the Authority to perform its obligation to perform the Transit Alternatives Analysis; and

WHEREAS, the County now desires to enter into an interlocal cooperation agreement with the Authority, which is attached hereto as Exhibit A (the "Interlocal Agreement"), to provide for payment of expenses as called for in the Escrow Agreement, which is attached hereto as Exhibit B (the "Escrow Agreement");

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

1. The Board hereby approves the Interlocal Cooperation Agreement, attached as Exhibit A, between the Authority and Salt Lake County and authorizes the Interim Executive Director to execute the same.
2. The Board hereby approves the Escrow Agreement between Salt Lake County, the Authority, and Z.B., National Association, dba Zions Bank in substantially the form attached hereto as Exhibit B, and authorizes the Executive Director to execute the same.

Approved and adopted this 10th day of April, 2019.

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Carlton Christensen, Chair  
Board of Trustees

ATTEST:

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Robert K. Biles, Secretary/Treasurer

(Corporate Seal)

Exhibit A  
(Interlocal Cooperation Agreement)

**INTERLOCAL COOPERATION AGREEMENT**

*between*

**SALT LAKE COUNTY**

*and*

**UTAH TRANSIT AUTHORITY**

This Interlocal Cooperation Agreement (this “Agreement”) is entered into by and between **SALT LAKE COUNTY**, a body corporate and politic of the State of Utah (the “County”) and the **UTAH TRANSIT AUTHORITY**, a public transit district and political subdivision of the State of Utah (“UTA”). The County and UTA may each be referred to herein as a “Party” and collectively as the “Parties.”

**RECITALS:**

A. The County and UTA are “public agencies” as defined by the Utah Interlocal Cooperation Act, Utah Code Ann. §§ 11-13-101 *et seq.* (the “Interlocal Act”), and, as such, are authorized by the Interlocal Act to enter into this Agreement to act jointly and cooperatively in a manner that will enable them to make the most efficient use of their resources and powers. Additionally, Section 11-13-215 of the Interlocal Act authorizes a county, city, town, or other local political subdivision to share its tax and other revenues with other counties, cities, towns, local political subdivisions, or the state.

B. During the 2018 General Session, the State Legislature passed SB136, which amended Section 59-12-2219 of the Revenue and Taxation Code, Utah Code Ann. §§ 59-12-101 *et seq.*, and the requirements for implementing a .25% increase in the County Sales Tax to be used for transportation purposes (hereinafter the “Fourth Quarter Funds”).

C. On May 1, 2018, the Salt Lake County Council passed Ordinance 1829, imposing a .25% increase the County sales tax.

D. The County desires to further regional transportation by financing the costs of regionally significant transportation facilities or public transit projects of regional significance throughout the County in accordance with Utah Code Ann. §59-12-2219(11)(a)(ii) of the Code and all other applicable federal, state and local laws, rules and regulations.

E. Draper City (“Draper”) applied for, and was awarded by the County, up to Four Hundred Thousand Dollars and No Cents (\$400,000.00) of the County’s portion of the Fourth Quarter Funds (such amount hereinafter referred to as the “County Transportation Funds”) to fund a portion of the costs related to performing a Transit Alternatives Analysis in the Point of the Mountain area to determine a Local Preferred Alternative for extension of the TRAX Blue

Line East/West of I-15 at the Point of the Mountain and connection to the former Utah State Prison redevelopment site (hereinafter the “Project”).

F. The purpose of the Project is to further a regionally significant public transit project and the Project is being funded by a several public and private stakeholders in the region.

G. UTA will be the lead public agency with respect to the Project.

H. Draper’s intent is to pay all County Transportation Funds Draper receives to UTA, and for UTA to apply such County Transportation Funds to the Project.

I. In the interests of efficiency, economy and simplicity, the County and UTA (with the understanding and consent of Draper) have agreed to enter this Agreement to provide for the County’s direct transfer of County Transportation Funds to UTA.

J. By executing the acknowledgement line below, Draper hereby evidences its consent to the direct payment of the County Transportation Funds to UTA and its assignment of its application for the County Transportation Funds.

### **AGREEMENT:**

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements contained herein, the sufficiency of which is hereby acknowledged, the Parties represent and agree as follows:

### **ARTICLE 1 - INCORPORATION AND DEFINITIONS**

1.1. Incorporation and Definitions. The foregoing recitals and all exhibits hereto are hereby made a part of this Agreement. The following terms shall have the following meanings in this Agreement:

(a) County Transportation Funds: As defined in the Recitals to this Agreement.

(b) Eligible Project Costs: Project costs incurred by UTA during the Term, so long as such costs are consistent with the allowable uses for Fourth Quarter Funds described Utah Code Ann. §59-12-2219(11)(a)(ii).

(c) Escrow Account: An escrow account at a bank or other financial institution mutually agreed upon by the Parties, subject to an Escrow Agreement, that allows UTA to make Withdrawals from the account to cover Eligible Project Costs once the conditions and documentation requirements contained in this Agreement and set forth by the County upon establishment of the account have been satisfied.

(d) Escrow Agent: A bank or other financial institution mutually agreed upon by the Parties that manages the Escrow Account.

(e) Escrow Agreement: An escrow agreement mutually agreed upon by the Parties that governs the Parties' respective withdrawals from the Escrow Account.

(f) Event of Default: As defined in Section 6.1 below.

(g) Event of Force Majeure: As defined in Section 7.4 below.

(h) Maximum Funded Amount: The amount specified for the Project in the Project Description attached hereto as **Exhibit A**.

(i) Project: The transportation project or projects described in or determined pursuant to the Project Description.

(j) Project Description: The project description attached hereto as **Exhibit A**.

(k) Project Element: A discrete portion of the Project.

(l) Request for Withdrawal: A statement from UTA, substantially in the form attached hereto as **Exhibit B**, requesting an amount of County Transportation Funds to be disbursed to UTA from the Escrow Account for payment of Eligible Project Costs.

(m) Term: The period of time commencing with the effective date of this Agreement and expiring upon the earlier of (i) the date UTA has withdrawn, in aggregate, the Maximum Funded Amount, (ii) the date this Agreement is terminated, or (iii) December 31, 2024. The County legislative body and UTA Board of Trustees hereby delegate to its respective Mayor/Executive Director the authority to extend this Agreement for an additional 3 one-year periods without legislative action.

(n) Withdrawal: A withdrawal made by UTA from the Escrow Account.

1.2. Interpretation of Action That May be Taken by the County. Whenever in this Agreement an action may be taken or not taken by the County, in its sole discretion, this shall mean that the action may be taken or not taken by the Mayor of the County, or his/her official designee (or the Director of the Department of Regional Transportation Housing and Economic Development, if such duty is so delegated to him/her by the Mayor of the County), in his/her sole discretion.

## **ARTICLE 2 - DISBURSEMENT OF COUNTY TRANSPORTATION FUNDS**

2.1. County Transportation Funds. During the Term, the County shall disburse County Transportation Funds to UTA to pay (or reimburse UTA with respect to) Eligible Project Costs, up to the Maximum Funded Amount for the Project, all on the terms and subject to the conditions of this Agreement.

2.2. Annual Status Update. Until the Project has been completed and the County Transportation Funds have been fully disbursed to UTA, UTA shall, on an annual basis, update the County on the status of (a) the Project and (b) the anticipated timing and amount of future Request for Withdrawal submittals. This annual update shall be submitted to the County in

writing (via letter or email) on or before June 30<sup>th</sup> each year.

### **ARTICLE 3 – REPRESENTATIONS AND WARRANTIES**

3.1. UTA's Representations and Warranties. UTA hereby represents, covenants, and warrants to the County as follows:

(a) Use of County Transportation Funds. Any County Transportation Funds disbursed to UTA from the Escrow Account under this Agreement will be used by UTA: (1) solely to reimburse or pay UTA for costs actually incurred by UTA for the Project during the Term; and (2) in accordance with all other applicable federal, state and local laws, rules and regulations.

(b) No Default. No default or Event of Default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an Event of Default in any material respect on the part of UTA under this Agreement.

(c) Information. To the best of UTA's knowledge, any information furnished to the County by UTA under this Agreement or in connection with the matters covered in this Agreement is true and correct and does not contain any untrue statement of any material fact and does not omit any material fact.

(d) Relationship of County and UTA. The County is not acting as a lender to UTA. The County has no fiduciary or other special relationship with UTA and therefore no fiduciary obligations are created by this Agreement or are owed to UTA or any third parties.

(e) Effect of Request for Withdrawal. Each Request for Withdrawal shall constitute a representation and warranty that the information set forth in such Request for Withdrawal is true and correct.

3.2. UTA's Additional Representations – Liability and Reliance. Notwithstanding anything to the contrary in this Agreement, UTA represents that the County has not opined on and will not at any point be deemed to have opined on whether any particular Eligible Project Cost for which a Withdrawal of County Transportation Funds is made under this Agreement is (i) consistent with the allowable uses for Fourth Quarter Funds as described in Utah Code Ann. §59-12-2219(11)(a)(ii); or (ii) in accordance with other applicable federal, state and local laws, rules and regulations. As such, notwithstanding anything to the contrary in this Agreement, UTA agrees to be liable for and indemnify the County from any improper use of the County Transportation Funds, as indicated in Section 5.1 below. Furthermore, UTA agrees that it will independently determine whether any particular Eligible Project Cost for which a Withdrawal of County Transportation Funds is sought by and made to UTA under this Agreement is consistent with the allowable uses for County Transportation Funds described in Utah Code Ann. §59-12-2219(11)(a)(ii), and UTA agrees that it will not rely on the County's review or acceptance of UTA's Project Schedule and Budget or any Request for Withdrawal in making that determination.

## ARTICLE 4 – DISBURSEMENTS

4.1. Conditions for Each Withdrawal of County Transportation Funds. UTA shall not be permitted to withdraw County Transportation Funds from the Escrow Account for Eligible Project Costs unless and until the following conditions have been satisfied:

(a) Sufficient Funds. County has accumulated sufficient County Transportation Funds to make the disbursement.

(b) Documents to be Furnished for Each Withdrawal. UTA has furnished to the County, for each and every Withdrawal relating to construction expenses:

(1) a Request for Withdrawal; and

(2) invoices for any Eligible Project Cost incurred by UTA for which UTA is seeking reimbursement or payment from the Escrow Account pursuant to the Request for Withdrawal.

(c) No Objection from County. Within ten (10) business days of the County's receipt of the documents described in Section 4.2(b), the County has not objected to or denied the requested withdraw of County Transportation Funds from the Escrow Account for Eligible Project Costs. The County agrees that it will only make an objection or denial of a Withdrawal request if it has a reasonable basis for concluding that UTA has not complied with the terms of this Agreement or Escrow Agreement (including, without limitation, by failing to provide the County with all documentation required in Section 4.2(a) above).

(d) No Event of Default. No Event of Default has occurred and is continuing beyond any applicable cure period.

(e) Warranties and Representations True. All warranties and representations made by UTA in this Agreement have remained true and correct and all warranties and representations made by UTA in the Request for Withdrawal are true and correct.

4.2. Withdrawals.

(a) In General. For any and all desired Withdrawals of County Transportation Funds, UTA shall submit a Request for Withdrawal directly to the County and to the Escrow Agent. UTA shall also submit to the Escrow Agent any documentation required to be submitted to the Escrow Agency by the Escrow Agreement.

(b) Amount of Withdrawal. Subject to compliance with the terms and conditions of this Agreement and the Escrow Agreement, UTA may withdraw the amount of County Transportation Funds requested by UTA in a Request for Withdrawal for Eligible Project Costs, but in no event shall UTA withdraw more than the Maximum Funded Amount, in aggregate, over the Term.

(c) Allowable Period for Withdrawals. UTA may not withdraw County Transportation Funds from the Escrow Account after expiration of the Term.

(d) Acquiescence Not a Waiver. To the extent that the County may have acquiesced in noncompliance with any conditions precedent to the Withdrawal of County Transportation Funds, such acquiescence shall not constitute a waiver by the County and the County at any time after such acquiescence may require UTA, as to future requests for Withdrawal, to comply with all such applicable conditions and requirements under this Agreement.

## **ARTICLE 5 – COVENANTS AND AGREEMENTS**

### **5.1. Indemnification and Liability.**

(a) Governmental Immunity. Both Parties are governmental entities under the Governmental Immunity Act of Utah, Utah Code Ann. §§ 63G-7-101 *et seq.* (the “Immunity Act”). Neither Party waives any defenses or limits of liability available under the Immunity Act and other applicable law. Both Parties maintain all privileges, immunities, and other rights granted by the Immunity Act and all other applicable law.

(b) Liability and Indemnification. UTA agrees to indemnify, hold harmless, and defend the County, its officers, agents, and employees from and against any and all actual or threatened claims, losses, damages, injuries, debts, and liabilities of, to, or by third Parties, including demands for repayment or penalties, however allegedly caused, resulting directly or indirectly from, or arising out of (i) any bodily injury and property damage arising out of the negligent acts or omissions of UTA, or its agents, representatives, officers, employees, or contractors in connection with the performance of this Agreement; or (ii) any use of the County Transportation Funds that is not authorized by this Agreement or that is in any event determined to be outside the permitted scope of the allowable uses described in Utah Code Ann. §59-12-2219(11)(a)(ii). UTA agrees that its duty to defend and indemnify the County under this Agreement includes all attorney’s fees, litigation and court costs, expert witness fees, and any sums expended by or assessed against the County for the defense of any claim or to satisfy any settlement, arbitration award, debt, penalty, or verdict paid or incurred on behalf of the County. UTA further agrees that UTA’s indemnification obligations in this Section 5.1 will survive the expiration or termination of this Agreement.

5.2. Recordkeeping. UTA agrees to maintain its books and records in such a way that any County Transportation Funds received from the County will be shown separately on UTA’s books. UTA shall maintain records adequate to identify the use of the County Transportation Funds for the purposes specified in this Agreement. Upon request of the County, UTA shall make its books and records related to the County Transportation Funds available to the County at reasonable times.

5.3. Assignment and Transfer of County Transportation Funds. UTA shall not assign or transfer its obligations under this Agreement nor its rights to the County Transportation Funds under this Agreement without prior written consent from the County. UTA shall use the County

Transportation Funds provided pursuant to this Agreement exclusively and solely for the purposes set forth in the Agreement.

## **ARTICLE 6 -DEFAULTS AND REMEDIES**

6.1. UTA Event of Default. The occurrence of any one or more of the following shall constitute an “Event of Default” as such term is used herein:

(a) Failure of UTA to comply with any of the material terms, conditions, covenants, or provisions of this Agreement that is not fully cured by UTA on or before the expiration of a sixty (60) day period (or, if the County approves in writing, which approval shall not be unreasonably withheld, conditioned or delayed, such longer period as may be reasonably required to cure a matter which, due to its nature, cannot reasonably be cured within 60 days) commencing upon the County’s written notice to UTA of the occurrence thereof.

6.2. County’s Remedies in the Event of Default. Upon the occurrence of any Event of Default, the County may, in its sole discretion, and in addition to all other remedies conferred upon the County by law or equity or other provisions of this Agreement, provide the Escrow Agent with a written certificate that UTA has defaulted with respect to this Agreement, such certificate directing the Escrow Agent to invoke one or more of the following default remedies on behalf of the County concurrently or successively, it being the intent hereof that none of such remedies shall be to the exclusion of any other:

(a) Prohibit further Withdrawal of County Transportation Funds to UTA from the Escrow Account; and/or

(b) Reduce the amount of any future Withdrawal of County Transportation Funds to UTA by the amount incurred by the County to cure such default; and/or

(c) Withdraw from the Escrow Account the amount incurred by the County to cure such default and reduce the Maximum Funded Amount by such amount; and/or

(d) Terminate this Agreement; and/or

(e) If this Agreement is terminated, withdraw all remaining amounts from the Escrow Account for use by the County for other projects as the County deems appropriate.

## **ARTICLE 7 — MISCELLANEOUS**

7.1. Interlocal Cooperation Act. In satisfaction of the requirements of the Interlocal Act in connection with this Agreement, the Parties agree as follows:

(a) This Agreement shall be approved by each Party pursuant to Section 11-13-202.5 of the Interlocal Act.

(b) This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney in behalf of each Party pursuant to and in accordance with Section 11-13-202.5 of the Interlocal Act.

(c) A duly executed original counterpart of this Agreement shall be filed immediately with the keeper of records of each Party pursuant to Section 11-13-209 of the Interlocal Act.

(d) Except as otherwise specifically provided herein, each Party shall be responsible for its own costs of any action done pursuant to this Agreement, and for any financing of such costs.

(e) No separate legal entity is created by the terms of this Agreement. Pursuant to Section 11-13-207 of the Interlocal Act, to the extent this Agreement requires administration other than as set forth herein, the County Mayor and the Executive Director of UTA are hereby designated as the joint administrative board for all purposes of the Interlocal Act.

7.2. Term of Agreement. This Agreement shall take effect immediately upon the completion of the following: (a) the approval of the Agreement by the governing bodies of the County and UTA, including the adoption of any necessary resolutions or ordinances by the County and UTA authorizing the execution of this Agreement by the appropriate person or persons for the County and UTA, respectively, (b) the execution of this Agreement by a duly authorized official of each of the Parties, (c) the submission of this Agreement to an attorney for each Party that is authorized to represent said Party for review as to proper form and compliance with applicable law, pursuant to Section 11-13-202.5 of the Interlocal Act, and the approval of each respective attorney, and (d) the filing of a copy of this Agreement with the keeper of records of each Party. This Agreement shall terminate upon expiration of the Term. If upon expiration of the Term, the Escrow Agent has not disbursed to UTA the Maximum Funded Amount, then all such undisbursed County Transportation Funds may be disbursed from the Escrow Account to the County and used by the County for other projects as the County deems appropriate.

7.3. Future Appropriations. The County has appropriated the County Transportation Funds for the current fiscal year.

7.4. Force Majeure. Neither Party will be considered in breach of this Agreement to the extent that performance of their respective obligations is prevented by an Event of Force Majeure that arises after this Agreement becomes effective. "Event of Force Majeure" means an event beyond the control of the County or UTA that prevents a Party from complying with any of its obligations under this Agreement, including but not limited to: (i) an act of God (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods); (ii) war, acts or threats of terrorism, invasion, or embargo; or (iii) riots or strikes. If an Event of Force Majeure persists for a period in excess of sixty (60) days, the County may terminate this Agreement without liability or penalty, effective upon written notice to UTA.

7.5. Notices. Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing, and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within three days after such notice is deposited in the United States mail, postage pre-paid, and certified and addressed as follows (or to such other address that may be designated by the receiving party from time to time):

If to Salt Lake County: County Mayor  
2001 South State, N2-100  
Salt Lake City, Utah 84190

With a copy to: Salt Lake County District Attorney  
35 East 500 South  
Salt Lake City, Utah 84111

If to UTA: Utah Transit Authority  
Capital Development Department  
669 West 200 South  
Salt Lake City, Utah 84111

With a copy to: Utah Transit Authority  
Legal Counsel  
669 West 200 South  
Salt Lake City, Utah 84111

7.6. Ethical Standards. UTA represents that it has not: (a) provided an illegal gift in connection with this Agreement to any County officer or employee, or former County officer or employee, or to any relative or business entity of a County officer or employee, or relative or business entity of a former County officer or employee; (b) retained any person to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards in connection with this Agreement set forth in State statute or Salt Lake County Code of Ordinances § 2.07; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, in connection with this Agreement, any County officer or employee or former County officer or employee to breach any of the ethical standards set forth in State statute or Salt Lake County Ordinances.

7.7. Entire Agreement. This Agreement and the documents referenced herein, if any, constitute 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 Agreement shall be binding or valid; and this Agreement may not be enlarged, modified or altered, except in writing, signed by the Parties.

7.8. Amendment. This Agreement may be amended, changed, modified or altered only by an instrument in writing signed by both Parties.

7.9. Governing Law and Venue. The laws of the State of Utah govern all matters arising out of this Agreement. Venue for any and all legal actions arising hereunder will lie in the District Court in and for the County of Salt Lake, State of Utah.

7.10. No Obligations to Third Parties. The Parties agree that UTA's obligations under this Agreement are solely to the County and that the County's obligations under this Agreement are solely to UTA. The Parties do not intend to confer any rights to third parties unless otherwise expressly provided for under this Agreement.

7.11. Agency. No officer, employee, or agent of UTA or the County is intended to be an officer, employee, or agent of the other Party. None of the benefits provided by each Party to its employees including, but not limited to, workers' compensation insurance, health insurance and unemployment insurance, are available to the officers, employees, or agents of the other Party. UTA and the County will each be solely and entirely responsible for its acts and for the acts of its officers, employees, or agents during the performance of this Agreement.

7.12. No Waiver. The failure of either Party at any time to require performance of any provision or to resort to any remedy provided under this Agreement will in no way affect the right of that Party to require performance or to resort to a remedy at any time thereafter. Additionally, the waiver of any breach of this Agreement by either Party will not constitute a waiver as to any future breach.

7.13. Severability. If any provision of this Agreement is found to be illegal or unenforceable in a judicial proceeding, such provision will be deemed inoperative and severable, and, provided that the fundamental terms and conditions of this Agreement remain legal and enforceable, the remainder of this Agreement shall remain operative and binding on the Parties.

7.14. Counterparts. This Agreement may be executed in counterparts and all so executed will constitute one agreement binding on all the Parties, it being understood that all Parties need not sign the same counterpart. Further, executed copies of this Agreement delivered by facsimile or email will be deemed an original signed copy of this Agreement.

IN WITNESS WHEREOF, each Party hereby signs this Agreement on the date written by each Party on the signature pages attached hereto.

**INTERLOCAL AGREEMENT - SIGNATURE PAGE FOR THE COUNTY**

**SALT LAKE COUNTY**

By \_\_\_\_\_  
Mayor or Designee

Dated: \_\_\_\_\_, 20\_\_\_\_

***Approved by:***

DEPARTMENT OF REGIONAL TRANSPORTATION,  
HOUSING AND ECONOMIC DEVELOPMENT

By \_\_\_\_\_  
Wilf Sommerkorn  
Acting Department Director

Dated: \_\_\_\_\_, 20\_\_\_\_

***Approved as to Form and Legality:***

By *Craig Wangsgard*  
Deputy District Attorney  
March 21, 2019

**INTERLOCAL AGREEMENT – SIGNATURE PAGE FOR UTA**

**UTAH TRANSIT AUTHORITY**

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

By \_\_\_\_\_

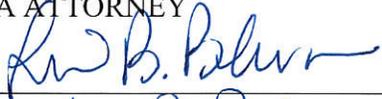
Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

***Approved as to Form and Legality:***

UTA ATTORNEY

By 

Name: Lisa B. Pohnan

Dated: April 4, 2019

**INTERLOCAL AGREEMENT – ACKNOWLEDGEMENT PAGE FOR DRAPER CITY**

On behalf of Draper City, I acknowledge the City's consent to the direct transfer of the County Transportation Funds to Utah Transit Authority in accordance with the terms and conditions of this Agreement. To the extent necessary, Draper City hereby assigns to Utah Transit Authority all rights under its previous application for the County Transportation Funds described in the Agreement. Subject to the forgoing acknowledgement, Draper City will not be considered a party to this Agreement.

**DRAPER CITY**

By \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

Attest:

\_\_\_\_\_  
\_\_\_\_\_, City Recorder

Date signed: \_\_\_\_\_

*Approved as to Proper Form and Compliance with Applicable Law:*

CITY ATTORNEY

By \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

**EXHIBIT A**  
**PROJECT DESCRIPTION**

1) **Project Title:** Point of the Mountain Transit Alternatives Analysis

<b>Project Description:</b>	Transit Alternatives Analysis in the Point of the Mountain area to determine a Local Preferred Alternative for extension of the TRAX Blue Line East/West of I-15 at the Point of the Mountain and connection to the former Utah State Prison redevelopment site.
<b>Maximum Funded Amount:</b>	\$400,000.00

**EXHIBIT B**  
**REQUEST FOR WITHDRAWAL**

To: Escrow Agent, with copy to Salt Lake County

Re: Utah Transit Authority – Interlocal Agreement for County Transportation Funds (DA Log No. \_\_\_\_\_)

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Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Interlocal Cooperation Agreement (the “Agreement”) between Salt Lake County (the “County”) and UTA (“UTA”) (DA Log No. \_\_\_\_\_). In connection with said Agreement, the undersigned hereby states and certifies that:

1. Each item listed on **Schedule 1** attached hereto is an Eligible Project Cost and was incurred in connection with the Project.
2. These Eligible Project Costs have been incurred by UTA and are reimbursable or payable under the Agreement.
3. Each item listed on **Schedule 1** has not previously been paid or reimbursed from money deposited by the County into the Escrow Account.
4. Invoices for each item listed on **Schedule 1** are attached hereto.
5. There has not been filed with or served upon UTA any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm, or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.
6. All work for which reimbursement or payment is requested under this Request for Withdrawal has been performed in a good and workmanlike manner and in accordance with the Agreement.
7. All Eligible Project Costs for which reimbursement or payment is requested under this Request for Withdrawal is consistent with the allowable uses for County Transportation Funds described in the allowable uses described in Utah Code Ann. §59-12-2219(11)(a)(ii) and in accordance with other applicable federal, state and local laws, rules and regulations.
8. UTA is not in default or breach of any term or condition of the Agreement, and no event has occurred and no condition exists which constitutes an Event of Default under the Agreement.

9. All of UTA's representations set forth in the Agreement remain true and correct as of the date hereof.

10. UTA acknowledges and agrees that the County's review and approval of this Request for Withdrawal will not be deemed to be a review by the County as to whether any particular Eligible Project Cost for which a Withdrawal of County Transportation Funds is sought hereunder is consistent with the allowable uses for County Transportation Funds described in the allowable uses described in Utah Code Ann. §59-12-2219(11)(a)(ii) or in accordance with other applicable federal, state and local laws, rules and regulations. As such, UTA agrees to be liable for and to indemnify the County from any improper use of the County Transportation Funds, as indicated in Section 5.1 of the Agreement.

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

**UTAH TRANSIT AUTHORITY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Denied for Payment this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**SALT LAKE COUNTY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



Exhibit B  
(Escrow Agreement)

## ESCROW AGREEMENT

THIS ESCROW AGREEMENT (“*Agreement*”) is made and entered into as of this \_\_\_ day of \_\_\_\_\_ 2019, by and among UTAH TRANSIT AUTHORITY (“UTA”), SALT LAKE COUNTY (“SLCO”) and Z.B., National Association, dba Zions Bank, as “Escrow Agent.”

UTA, SLCO and Escrow Agent agree as follows:

1. **Purpose.** The intent of this Agreement is to establish the terms and conditions pursuant to which the Escrow Agent will disburse \$400,000 in SLCO funding (the “Escrow Property”), as identified in Exhibit A, to UTA to fund a portion of the costs related to performing a Transit Alternatives Analysis in the Point of the Mountain area to determine a Local Preferred Alternative for extension of the TRAX Blue Line East/West of I-15 at the Point of the Mountain and connection to the former Utah State Prison redevelopment site (the “Project”).
2. **Express Duties.** This Agreement expressly and exclusively sets forth the duties of Escrow Agent with respect to any and all matters pertinent hereto, and no implied duties or obligations shall be read into this Agreement against Escrow Agent. There are no additional written or unwritten oral agreements between or among the parties that would modify the Escrow Agent’s obligations. This Agreement constitutes the entire agreement between the Escrow Agent and the other parties hereto in connection with the subject matter of this escrow. The Escrow Agent shall have no duty to know or determine the performance or nonperformance of any provision of any separate agreement between or among the other parties hereto, and no other agreement shall be considered as adopted or binding, in whole or in part, upon the Escrow Agent notwithstanding that any such other agreement may be referred to herein or deposited with Escrow Agent or the Escrow Agent may have knowledge thereof, and Escrow Agent's rights and responsibilities shall be governed solely by this Agreement.
3. **Depositary.** The Escrow Agent acts hereunder as a depositary only. Escrow Agent’s obligations are limited solely to processing requests for withdrawals of Escrow Property (“Withdrawal Requests”) in accordance with the specific instructions set forth in Exhibit B. With regard to such obligations, Escrow Agent is not responsible or liable for verifying the accuracy, sufficiency, genuineness or validity of any matters set forth in documentation provided to the Escrow Agent. This Agreement shall not be deemed to create a fiduciary relationship between the parties hereto under state or federal law.
4. **Notice.** Other than as specifically set forth herein, the Escrow Agent shall not be required to take or be bound by any notice or to take any action unless the Escrow Agent is indemnified in a manner satisfactory to it against any expense or liability. Except as otherwise provided in this Agreement, any notice, request for consent, report or other communication required or desired to be given by the Escrow Agent or the other parties to this Agreement shall be in writing and shall be deemed to have been given when delivered in person or by electronic transmission or mailing the same, postage prepaid, to such party at the address noted on the signature page and notice so mailed shall for all purposes hereof be as effective as though served upon such party in person at the time received. It shall be the responsibility of the Escrow Agent and each of the other parties to notify each other in writing of any name, address or facsimile number change.

5. **Reliance.** The Escrow Agent may rely upon any Withdrawal Request submitted on behalf of UTA by UTA's project controls manager, Gregg Larsen (glarsen@rideuta.com) or UTA's assistant comptroller, Bryan Steele (bsteele@rideuta.com). The Escrow Agent may rely upon any objection submitted to a Withdrawal Request which purports to be made by or on behalf of SLCO. The Escrow Agent shall be entitled to rely upon any other notice, request, waiver, consent, receipt or other instruction received by either party if such notice, request, waiver, consent, receipt or other instruction is provided or purported to be provided by the following: (i) with respect to UTA, UTA's project manager, Patricia Garver (pgarver@rideuta.com) or UTA's Director of Capital Projects, Mary Deloretto (mdeloretto@rideuta.com); and with respect to SLCO, the then-current Director of SLCO's Department of Regional Transportation, Housing and Economic Development, which currently, as of the date of this Agreement, is Wilf Sommerkorn (wsommerkorn@slco.org). Specimen signatures for the above-described representatives are included in the attached Exhibit E.

6. **Limitations of Liability.** The Escrow Agent shall not be liable for any error of judgment or for any act done or step taken or omitted by it in good faith or for any mistake of fact or law or for anything which the Escrow Agent may do or refrain from doing in connection herewith, including upon advice of counsel, except for its own willful misconduct or gross negligence. Escrow Agent may consult with legal counsel at the joint and several cost and expense of the undersigned (other than Escrow Agent) in the event of any dispute or question as to the construction of any of the provisions hereof or its duties hereunder, and it shall incur no liability and shall be fully protected in acting in accordance with the advice of such counsel.

7. **Authority for Agreement.** Each party represents and warrants that it has full power and authority to enter into this Agreement and has taken all action necessary, corporate or otherwise, to carry out the transaction contemplated hereby so that when executed this Agreement constitutes a valid and binding obligation enforceable in accordance with its terms.

8. **Escrow Property.** No assignment, transfer, conveyance or hypothecation of any right, title or interest in and to the Escrow Property shall be binding upon the Escrow Agent unless written notice thereof shall be served upon the Escrow Agent and all fees, costs and expenses incident to such transfer of interest shall have been paid.

9. **Terms of Agreement.** The terms of this Agreement may be altered, amended, modified or revoked by writing only, signed by all of the parties hereto or their successors or assigns, and approved by the Escrow Agent, upon payment of all fees, costs and expenses incident hereto.

10. **Compensation.** In consideration for the Escrow Agent's agreement to perform the services set forth in this Agreement, UTA agrees to pay the fees and charges of the Escrow Agent as set forth in Exhibit C, each year in advance, upon the commencement of the escrow and thereafter on each anniversary date hereof without proration. All fees charged shall be paid by UTA. In addition to the escrow fee agreed upon, the other parties to this Agreement jointly and severally agree to pay the Escrow Agent's costs and expenses including reasonable attorneys' fees in the event of any dispute or litigation threatened or commenced which requires the Escrow Agent in its opinion to refer such matter to its attorneys. Escrow Agent will incur no liability for any delay

reasonably required to obtain such advice of counsel. The Escrow Agent shall have a first lien on the Escrow Property held by it hereunder for its compensation and any costs or expense incurred.

11. **Indemnification.** The parties to this Agreement (other than Escrow Agent) hereby agree to indemnify and hold Escrow Agent, its affiliates and their directors, officers, employees, successors, assigns, attorneys and agents (each an "Indemnified Party") harmless from all losses, costs, claims, demands, actions, proceedings, judgments, court costs, payments, expenses, damages, penalties, counsel's fees, and all liabilities whatsoever suffered or incurred by any Indemnified Party or Escrow Agent as a result of anything which it may do or refrain from doing in connection with this Agreement or any litigation or cause of action arising from or in conjunction with this Agreement or involving the subject matter hereof or Escrow Funds or monies deposited hereunder or for any interest upon any such monies, including, without limitation, arising out of the negligence of Escrow Agent; provided that the foregoing indemnification shall not extend to the gross negligence or willful misconduct of Escrow Agent. This indemnity shall include, but not be limited to, all costs incurred in conjunction with any interpleader which the Escrow Agent may initiate relating to this Agreement.

12. **Termination.** This Agreement shall terminate upon the first to occur of any of the following events: (a) when the Escrow Agent has released all Escrow Property from the Escrow Account in accordance with the provisions contained in Exhibit B attached hereto and incorporated herein by reference, or (b) December 31, 2024, in which case the Escrow Agent shall deliver the remaining Escrow Property as directed by SLCO.

13. **Resignation of Escrow Agent.** The Escrow Agent may resign at any time by giving written notice by Certified Mail, Return Receipt Requested to all of the parties hereto to be effective thirty days after such notice has been deposited into the U.S. Mail. If a successor agent has not been appointed within thirty days after such notice of resignation, the Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor Escrow Agent. Costs of such petition, including reasonable attorneys' fees, shall be borne by jointly and severally by the other parties to the Agreement or may be assessed by the resigning Escrow Agent against the Escrow Property. The Escrow Agent shall have no responsibility for the appointment of a successor escrow agent. The successor Escrow Agent shall execute and deliver to the Escrow Agent an instrument accepting such appointment, and the successor Escrow Agent shall, without further acts, be vested with all the estates, property rights, powers and duties of the predecessor Escrow Agent as if originally named as Escrow Agent herein. The Escrow Agent shall act in accordance with written instructions from the other parties to this Agreement as to the transfer of the Escrow Fund to a successor escrow agent.

14. **Applicable Law.** Applicable laws shall inure to and be binding upon the parties and their respective successors, heirs and assigns. All representations, covenants and indemnification contained in herein shall survive the termination of this Agreement.

(a) This agreement shall be constructed and construed in accordance with the laws of the State of Utah.

(b) Escrow Agent hereby notifies the other parties hereto that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 the "Act"), it is required to obtain, verify and

record information that identifies the other parties hereto, which information includes the name and address of the other parties hereto and other information that will allow Escrow Agent to identify the other parties hereto in accordance with the Act.

(c) The other parties agree to provide the Escrow Agent with certified tax identification numbers for each of them by furnishing appropriate forms W-9 (or Forms W-8, in the case of non-U.S. persons) and any other forms and documents that the Escrow Agent may reasonably request. The parties hereto understand that, if such tax reporting documentation is not so furnished to the Escrow Agent, the Escrow Agent shall be required by the Internal Revenue Code to withhold a portion of any interest or other income earned on the investment of monies or other property held by the Escrow Agent pursuant to this Agreement, and to immediately remit such withholding to the Internal Revenue Service. Any interest or income earned on the Fund shall be reportable on Form 1099 by the Escrow Agent to tax identification number 87-0284459 in the name of UTA and such party agrees to provide Escrow Agent with a Form W-9 or W-8 as appropriate.

15. **Investments.** The Escrow Agent shall invest the Escrow Property as indicated in Exhibit B. The Escrow Agent shall not be responsible or liable for any diminution of principal, interest, or penalty on any investments of the Escrow Property made pursuant to the terms of this Agreement.

16. **Conflicts.** If a conflict arises between the instructions set forth in Exhibit B (“Specific Instructions”) and the terms set forth herein, then the terms set forth in the Specific Instructions shall rule.

17. **Miscellaneous.**

(a) If any provision of this Agreement is illegal, inoperative or unenforceable, that shall not affect any other provision herein.

(b) Escrow Agent shall make no disbursement, investment or other use of funds until and unless it has collected funds. Escrow Agent shall not be liable for collection items until the proceeds of the same in actual cash have been received.

(c) Escrow Agent shall send monthly statements to the undersigned of all activity and transactions processed for the escrow account and the undersigned (except Escrow Agent) hereby agree to waive their right to receive trade confirmations as they occur.

18. **Construction.** Words used in the singular number may include the plural and the plural may include the singular. The section headings appearing in this instrument have been inserted for convenience only and shall be given no substantive meaning or significance whatsoever in construing the terms and conditions of this the Agreement. Titles and headings in this Agreement are intended for convenience or reference and shall not affect the interpretation of any of the provisions hereof. All facsimile signature(s) to this agreement is as valid and effective for all purposes as an original signature.

19. **Force Majeure.** Escrow Agent shall not be liable to the undersigned for any loss or damage arising out of any acts of God, strikes, equipment or transmission failure, war, terrorism, or any other act or circumstance beyond the reasonable control of Escrow Agent.

20. **Counterparts.** This Agreement may be executed in one or more counterparts in which event all of said counterparts shall be deemed to constitute one original of this Agreement. This Agreement is effective upon delivery of one executed counterpart from each party to the other parties.

IN WITNESS WHEREOF the undersigned have hereto affixed their signatures and hereby adopt as a part of this Agreement Exhibits A, B, C and D hereto attached.

**UTAH TRANSIT AUTHORITY**

**ESCROW AGENT**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name: Patricia Garver  
([pgarver@rideuta.com](mailto:pgarver@rideuta.com))

\_\_\_\_\_  
Name: Verena Critser  
([Verena.Critser@zionsbancorp.com](mailto:Verena.Critser@zionsbancorp.com))

\_\_\_\_\_  
Title: Project Manager

\_\_\_\_\_  
Title: Trust Officer

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address:  
One South Main Street, 12<sup>th</sup> Floor  
Salt Lake City, UT 84133-1109

\_\_\_\_\_  
Name: Mary Deloretto  
([mdeloretto@rideuta.com](mailto:mdeloretto@rideuta.com))

**SALT LAKE COUNTY**

\_\_\_\_\_  
Title: Director of Capital Projects

\_\_\_\_\_  
Signature

Address:  
669 West 200 South  
Salt Lake City, UT 84101

\_\_\_\_\_  
Name: Mayor Ben McAdams or Designee  
Email Address

Approved as to form:

  
\_\_\_\_\_  
UTA Legal Counsel

\_\_\_\_\_  
Title: County Mayor or Designee  
Address:  
2001 South State, Suite S2-100  
Salt Lake City, Utah 84190

***Approved as to Form and Legality:***

By   
\_\_\_\_\_  
Deputy District Attorney  
March 13, 2019

**EXHIBIT A**

**(“Escrow Property”)**

**Cash deposit provided by SLCO in the initial, aggregate amount of \$400,000, and any interest earnings thereon**

## EXHIBIT B

### ("Specific Instructions")

**Purpose:** SLCO has agreed to fund up to \$400,000 to fund a portion of the costs related to performing a Transit Alternatives Analysis in the Point of the Mountain area to determine a Local Preferred Alternative for extension of the TRAX Blue Line East/West of I-15 at the Point of the Mountain and connection to the former Utah State Prison redevelopment site (the "Project"). The purpose of this account is to allow UTA to make monthly progress payments to its consultant for the Project.

**Disbursements:** Upon award of the consulting contract, UTA will make periodic drawdowns of the Escrow Property to pay (or reimburse itself) costs incurred under the consulting contract. In conjunction with proposed drawdown, UTA will submit to the Escrow Agent a Request for Withdrawal of Escrow Property ("Withdrawal Request"), using the form attached as Exhibit D. At the same time UTA sends the Withdrawal Request to the Escrow Agent, a copy of the Withdrawal Request will be emailed to the SLCO representative identified in Section 5 of the Escrow Agreement.

The Escrow Agent shall not make a payment with regard to the Withdrawal Request for a period of ten (10) business days. This period shall commence on the first business day after the Withdrawal Request is received by Escrow Agent and SLCO. The purpose of this ten(business)-day period shall be to allow for SLCO to review the Withdrawal Request and supporting documentation to confirm compliance with the Escrow Agreement and corresponding Interlocal Agreement between UTA and SLCO.

SLCO shall notify the Escrow Agent of any such objection by submitting a countersigned Withdrawal Request (see the payment denial line located on the bottom of the form included as Exhibit D). An objection must be sent to the Escrow Agent by both email and physical delivery (via hand delivery or express service with receipt confirmation). The objection must be received by the Escrow Agent by 5:00 PM (Mountain prevailing time) on the tenth business day after receipt. If the Escrow Agent does not receive an objection to payment from SLCO, then Escrow Agent shall make full payment in accordance with the Withdrawal Request. Payments shall be made on the eleventh business day following Escrow Agent's receipt of the Withdrawal Request.

If the Escrow Agent receives an objection to payment, then the Escrow Agent shall withhold payment with regard to the Withdrawal Request, pending receipt of joint instructions from SLCO and UTA. The Escrow Agent shall have no duty to verify or confirm the merits of any objection received from SLCO. The Escrow Agent's only duty shall be to ensure that such objection was received from SLCO within the above-described ten day period. Escrow Agent shall have no liability to UTA for payments withheld based on a SLCO objection.

For purposes of the Agreement, "business day" shall mean a day other than a Saturday, Sunday or federal or state holiday recognized by the Escrow Agent. If the final day of any period referenced in this Agreement falls on a day other than a business day (as defined immediately above), then the period shall be construed so as to end on the next succeeding business day.

**Investment of Funds:** Moneys will be invested in the Public Treasurers Investment Fund (PTIF) and all earnings will be retained in the account. Subject to Section 12 of the Agreement, and SLCO's ability to object to any Withdrawal Request, all interest shall be payable to UTA as part of the final request for payment of operating costs.



**EXHIBIT C**

**(“Escrow Agent Fee Schedule”)**

**\$750.00 Annual Fee**

## EXHIBIT D

### ("Request for Withdrawal of Escrow Property")

#### REQUEST FOR WITHDRAWAL

To: Escrow Agent, with copy to Salt Lake County

Re: Utah Transit Authority – Interlocal Agreement for Transportation Funds (DA Log No. 17-09303)

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Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Interlocal Cooperation Agreement (the "Agreement") between Salt Lake County (the "County") and UTA ("UTA") (DA Log No. 17-09303). In connection with said Agreement, the undersigned hereby states and certifies that:

1. Each item listed on **Schedule 1** attached hereto is a Reimbursable Project Cost and was incurred in connection with the Project.
2. These Reimbursable Project Costs have been incurred by UTA and are reimbursable or payable under the Agreement.
3. Each item listed on **Schedule 1** has not previously been paid or reimbursed from money deposited by the County into the Escrow Account.
4. Invoices for each item listed on **Schedule 1** are attached hereto.
5. There has not been filed with or served upon UTA any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm, or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.
6. All work for which reimbursement or payment is requested under this Request for Withdrawal has been performed in a good and workmanlike manner and in accordance with the Agreement.
7. All Reimbursable Project Costs for which reimbursement or payment is requested under this Request for Withdrawal is consistent with the allowable uses for County Transportation Funds described in.
8. UTA is not in default or breach of any term or condition of the Agreement, and no event has occurred and no condition exists which constitutes an Event of Default under the Agreement.

9. All of UTA's representations set forth in the Agreement remain true and correct as of the date hereof.

10. UTA acknowledges and agrees that the County's review and approval of this Request for Withdrawal will not be deemed to be a review by the County as to whether any particular Reimbursable Project Cost for which a withdrawal of Transportation Funds is sought hereunder is consistent with the allowable uses for County Transportation Funds described in Utah Code Ann. §59-12-2219(11)(a)(ii). As such, UTA agrees to be liable for and to indemnify the County from any improper use of the Transportation Funds, as indicated in Section 5.1 of the Agreement.

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

**UTAH TRANSIT AUTHORITY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**BY SIGNING BELOW, SALT LAKE COUNTY HEREBY OBJECTS TO THE ABOVE DESCRIBED PAYMENT REQUEST AND DIRECTS ESCROW AGENT NOT TO MAKE PAYMENT. THIS OBJECTION IS MADE BY SALT LAKE COUNTY AS OF THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.**

**SALT LAKE COUNTY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**EXHIBIT E**  
**REPRESENTATIVE SPECIMEN SIGNATURES**

CERTIFICATE OF AUTHORIZED REPRESENTATIVES

Re: UTA/ SALT LAKE COUNTY ESCROW

Shown below are the specimen signatures of the individuals who have been designated as authorized representatives of each party and are hereby authorized to initiate and approve transactions for the above referenced Escrow Agreement.

NAME	TITLE	SIGNATURE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Date: \_\_\_\_\_

**RESOLUTION OF THE BOARD OF TRUSTEES OF  
THE UTAH TRANSIT AUTHORITY AUTHORIZING PROPERTY  
RIGHT OF WAY ACQUISITION FOR THE PROVO-OREM BUS RAPID  
TRANSIT PROJECT**

R2019-04-03

April 10, 2019

WHEREAS, Utah Transit Authority (the "Authority") is a public transit district organized under the laws of the State of Utah and was created to transact and exercise all of the powers provided for in the Utah Limited Purpose Local Government Entities – Local Districts Act and the Utah Public Transit District Act;

WHEREAS, the Authority has constructed the Utah Valley Express Bus Rapid Transit Project (the "Project") in Utah County;

WHEREAS, the Authority required approximately 4,861 square feet of property in fee and approximately 6,848 square feet of property for a temporary construction easement located at approximately 175 East University Parkway, Orem, UT 84058 (the "Property") to complete the Project;

WHEREAS, the Authority obtained a certified appraisal identifying the value of the Property to be \$181,600 and the property owner obtained a certified appraisal identifying the value of the Property to be \$342,600;

WHEREAS, the property owner incurred additional costs due to construction;  
and

WHEREAS, the parties participated in mediation and have agreed to an administrative settlement in the amount of \$292,598 for the purchase of the Property to avoid the costs of condemnation.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Authority (the "Board"):

1. That the Board hereby approves the purchase of the Property in the amount of \$292,598.
2. That the Board hereby approves the contract for the purchase of the Property attached hereto as Exhibit A.
3. That the Executive Director and his or her designee(s) are authorized to execute the attached contract and any closing statements, escrow forms and other documents and instruments, and take any additional actions as

may be necessary or prudent to complete the purchase in accordance with the terms indicated herein.

4. That the Board hereby ratifies any and all actions previously taken by the Authority's management and staff with regard to the purchase of the Property.
5. That the corporate seal be attached hereto.

Approved and adopted this 10<sup>th</sup> day of April, 2019.

---

Carlton Christensen, Chair  
Board of Trustees

ATTEST:

---

Robert K. Biles, Secretary/Treasurer

(Corporate Seal)

## Exhibit A



# Utah Transit Authority

## Right of Way Contract

*Fee Simple Acquisition - Strip*

Project No: S-0265(23)3 Parcel No.(s): 143B:A, 143B:E

Pin No: 10266 Job/Proj No: 71663 Project Location: Provo/Orem Transportation Improvement Project

County of Property: UTAH Tax ID / Sidwell No: 19:014:0112

Property Address: 175 East University Parkway OREM UT, 84058

Owner's Address: 111 E. Broadway, Suite 900, Salt Lake City UT 84111

Primary Phone: Owner's Home Phone: Owner's Work Phone:

Owner / Grantor (s): Garff Properties-Orem, LLC, a Utah limited liability company, whose address is 111 E. Broadway, Suite 900, Salt Lake City, Utah 84111

Grantee: Utah Transit Authority (UTA)

IN CONSIDERATION of the foregoing and other considerations hereinafter set forth, it is mutually agreed by the parties as follows:

The Grantor hereby agrees to convey and sell by Special Warranty Deed, Temporary Easement a parcel(s) of land known as parcel number(s) 143B:A, 143B:E for transportation purposes. This contract is to be returned to: , Right of Way Agent c/o Utah Transit Authority (UTA), 669 W. 200 South, Salt Lake City, UT 84101.

1. Grantor will transfer property free of all liens and encumbrances except recorded easements.
2. Grantor agrees to transfer property free of all debris and any hazardous materials (including paint or other household products.)
3. Grantor shall leave the property in the same condition, as it was when this contract was signed. No work, improvement, or alteration will be done to the property other than what is provided for in this agreement. Grantor agrees to maintain the property until UTA takes possession.
4. Grantor agrees to pay any and all taxes assessed against this property to the date of closing.
5. UTA shall pay the Grantor and or other parties of interest for the real property in the deed(s) and/or easement(s) referenced above.
6. "Transportation Purposes" is defined as follows: The public use for which the property or property right is being acquired herein, may include but is not limited to the following possible uses by UDOT, UTA and/or the City: the construction and improvement of a highway or roadway, which may include interchanges, entry and exit ramps, frontage roads, bridges, overpasses, rest areas, buildings, signs and traffic control devices, turning lanes, dedicated bus lanes, curbing, curb and gutter, safety zones and areas, sidewalks and pedestrian crossings, bus shelters and facilities, station platforms and related facilities, placement of utilities, clear zones, maintenance facilities, detention or retention ponds, environmental mitigation, maintenance stations, material storage, bio fuel production, slope protections, drainage appurtenance, noise abatement, landscaping, transit, project caused statutory relocations, and other related transportation uses.
7. The Grantor(s) is aware that Utah Code Ann. Sect. 78B-6-520.3 provides that in certain circumstances, the seller of property which is being acquired for a particular public use, is entitled to receive an offer to repurchase the property at the same price that the seller received, before the property can be put to a different use. Grantor(s) waives any right grantor may have to repurchase the property being acquired herein, and waives any rights Grantor(s) may have under Utah Code Ann. Sect. 78B-6-520.3.
8. Grantor shall indemnify and hold harmless Grantee from and against any and all claims, demands and actions, including costs, from lien holders or lessees of the property.
9. Upon execution of this contract by the parties, Grantor grants UTA, its contractors, permittees, and assigns, including but not limited to, utilities and their contractors, the right to immediately occupy and commence construction or other necessary activity on the property acquired for the state transportation project.

**Additional Terms:**

1. UTA agrees that no mobile trailers, portable toilets or other temporary construction office equipment will be placed on the property to be acquired for the Project as reflected in Exhibit A hereto (hereinafter the "Property"). Property Owners agree to relocate light poles and pole sign as soon as reasonably possible. UTA will use its best efforts to complete the heavy construction portions of the Project (e.g., sumps relocation, regrading, utility relocation, asphalt paving, curb and gutter reconstruction, and sidewalk installation) within 4 months of beginning work on the parcel. Property Owners recognize that certain events beyond the control of UTA (e.g., weather, acts of god, unanticipated Project issues, or otherwise) may require additional time for such work to be complete, and UTA will utilize its best efforts to complete such work as quickly as possible, recognizing that the entire Project timeline has to be maintained. Additional finish work (e.g. landscaping, punch list, etc.) will likely be done outside of the 4-month time frame referenced in this paragraph, which Property Owner acknowledges.
2. Excepting and excluding trucks delivering asphalt, aggregate, concrete and finishing materials necessary for the hardscape improvements to be constructed upon the Property, UTA and UTA's contractor and subcontractors shall have access to the Property only from the public right-of-way and not through other portions of Grantor's property. Any access by UTA and UTA's contractors across Grantor's Property shall be coordinated in advance with Grantor.



# Utah Transit Authority Right of Way Contract *Fee Simple Acquisition - Strip*

Project No: S-0265(23)3 Parcel No.(s): 143B:A, 143B:E  
Pin No: 10266 Job/Proj No: 71663 Project Location: Provo/Orem Transportation Improvement Project  
County of Property: UTAH Tax ID / Sidwell No: 19:014:0112  
Property Address: 175 East University Parkway OREM UT, 84058  
Owner's Address: 111 E. Broadway, Suite 900, Salt Lake City UT 84111  
Primary Phone: Owner's Home Phone: Owner's Work Phone:  
Owner / Grantor (s): Garff Properties-Orem, LLC, a Utah limited liability company, whose address is 111 E. Broadway, Suite 900, Salt Lake City, Utah 84111  
Grantee: Utah Transit Authority (UTA)

3. UTA's contractor shall maintain a drivable connection between the Grantor's property and University Parkway during construction.

4. UTA shall provide temporary directional (showing how to access the property) signage during periods of re-routed traffic patterns on University Parkway. Any such signage shall have dimensions no smaller than 4'X4'.

5. UTA shall, at its sole cost and expense, cause its contractor to restore the property: (I) to the condition existing prior to the UTA's use of the property (to the extent reasonably practicable); (II) In accordance with a mutually acceptable and approved construction design which, by this reference, is incorporated herein; and (III) so as to conform with landscaping standards approved by Orem City. This shall include, but not be limited to, replacement of vehicle display pads, lot regrading, repainting of parking striping, relocation of dry sump, and landscaping pursuant to the construction design plan. Notwithstanding the foregoing, Grantor acknowledges that Property Owner shall be responsible for (1) the relocation and reinstallation of display lighting as shown in the approved construction design plan, and (2) relocation of that pole sign located near and to the east of Engineers Station 152+00. The other sign located near and to the west of Engineers Station 152+00 will be protected in place, it being outside of the area needed for the Project based upon the new design on Property Owners parcel.. Property Owner acknowledges that the Deposit amount has been reduced by \$52,644 from UTA's approved appraisal, which included the relocation of dry sumps as cost to cure items.

6. In addition to the deposit paid into escrow for the ROO, UTA has paid on check #327893 dated 6/29/18, \$20,800.00 to Grantor for the cost of washing Property Owner's inventory and Property Owner agrees to waive any and all claims relating to washing the inventory.

7. UTA agrees to reimburse Grantor for damage to Property Owner's vehicle inventory caused by UTA's use of the easement area and/or UTA's construction activity and as reported in writing by Grantor to UTA within one week of such damage. If Grantor fails to report damage within one week, Grantor will be deemed to have waived any claim for such damage.

8. Any dispute arising under the terms and conditions of this Contract shall be resolved through binding arbitration in accordance with the rules of the American Arbitration Association ("AAA"). Said arbitration shall be held in Salt Lake City, Utah and shall be before a mutually acceptable and agreed-upon arbitrator. If mutual agreement on the arbitrator cannot be reached, the arbitration panel shall be comprised of three arbitrators: one of the Grantor's choosing, one of the Grantee's choosing and one assigned by the AAA. The prevailing party shall be entitled to attorney's fees and reimbursement for its share of the costs of arbitration. Notwithstanding the foregoing, the amount of just compensation for property rights to be acquired as described herein shall not be subject to the arbitration requirements of this paragraph.

9. Grantor was paid for the following improvements: 3120 sq. ft of lawn = \$3,900.00, 3120 sq. ft of sprinkling lines = \$2496.00, 1396 sq. ft of asphalt paving = \$4,188.00, 35 lf of concrete curb w/ 1' Gutter = \$539.00, 345 sq.ft. of concrete paving = \$1518.00. This payment is included in the Total Selling Price.

10. Grantor was paid for the following cost to cure item: Relocation of 8 Parking Light Posts = \$30,480.00. This item is included in the Total Selling Price.

11. An Administrative Settlement in the amount of \$110,998.00 is included in the Total Selling Price.

12. This contract is subject to FTA concurrence.

**CONFIRMATION OF AGENCY DISCLOSURE.** Buyer and Seller acknowledge prior written receipt of agency disclosure provided by their respective agent that has disclosed the agency relationships confirmed below. At the signing of the Purchase Contract;



# Utah Transit Authority

## Right of Way Contract

*Fee Simple Acquisition - Strip*

Project No: S-0265(23)3 Parcel No.(s): 143B:A, 143B:E

Pin No: 10266 Job/Proj No: 71663 Project Location: Provo/Orem Transportation Improvement Project

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Owner's Address: 111 E. Broadway, Suite 900, Salt Lake City UT 84111

Primary Phone: Owner's Home Phone: Owner's Work Phone:

Owner / Grantor (s): Garff Properties-Orem, LLC, a Utah limited liability company, whose address is 111 E. Broadway, Suite 900, Salt Lake City, Utah 84111

Grantee: Utah Transit Authority (UTA)

Seller's Agent \_\_\_\_\_, represents seller.  
 Seller's Brokerage \_\_\_\_\_, represents seller.  
 Buyer's Agent \_\_\_\_\_, represents purchaser.  
 Buyer's Brokerage \_\_\_\_\_, represents purchaser.

**Total Selling Price**      \$292,598.00

**Grantor's Initials**

**Grantor understands this agreement is an option until approved by the MGR of Property Acquisition/Dispositions.**  
 Grantors acknowledge and accept the percent of ownership listed below and agree that the portion of the total selling price they each receive, will correspond with their respective percent of ownership.  
 This Contract may be signed in counterparts by use of counterpart signature pages, and each counterpart signature page shall constitute a part of this Contract as if all Grantors signed on the same page.

**Percent**

**Date**

100%

12/13/18

Garff Properties-Orem, LLC

**Right of Way Agents**

\_\_\_\_\_  
 Gale Padgett/ Acquisition Agent

\_\_\_\_\_  
 Eric Lyon / Team Leader

\_\_\_\_\_  
 Senior Manager of Real Estate and Transit Oriented Development

\_\_\_\_\_  
 Project Manager

\_\_\_\_\_  
 Vice President of Finance

\_\_\_\_\_  
 Interim Executive Director

## Detailed Contract Description & Purpose

**Board Review Date:** 4/10/2019

**Document Type:** Other

**Action Requested:** Motion to approve the contract or change order

**Criteria:**

Indemnification Agreement

**Contract Title:** Sandy Towers East  
Indemnification Agreement

**Contract #** 19-03028

**Project Manager:** Paul Drake

**Contract Administrator:** Teresa Pickett

**Impacted Areas:** Real Estate/TOD

**Included in budget?** N/A

**Procurement method:**

**Contractor:** Sandy Towers East

N/A

(Hamilton Partners)

**Sole-Source Reason:** N/A

**Qty & Unit price**

**Change Order Value**

**Total Contract Value**

**Contract term (Months)** 8

**Contract Start Date** 4/10/2019

**Contract options (Months)** N/A

**Contract End Date:** 12/31/2019

**Number of responding firms:** N/A

**\$ Value of Next Lowest Bidder** N/A

### **General Description & Purpose:**

Under the terms of the Sandy Civic Center development agreement, UTA's development partners have begun preparing the site located at 10000 South and State Street. This work includes placing a canal in an underground culvert. The cost is considered a "Master Development Expense", covered by the development partners, and reimbursed per the terms of the development agreement.

Salt Lake Public Utilities, which owns the canal, has insisted that UTA, as the landowner, sign a General Agreement of Indemnity (Exhibit A to the Indemnification Agreement) to ensure that the work is performed satisfactorily and functions appropriately for the term of the agreement. The amount of the general indemnity is \$1.7 million. UTA and its development partners will sign the attached side agreement (Indemnification Agreement) that transfers all of this liability from UTA to the development entity. This allows the construction to be completed by the end of this year and protects UTA from liability. The board action requested is a motion to approve the Indemnification Agreement and the General Agreement of Indemnity.

(Items to include: Current condition, Benefits, Return on investment, Savings, Other alternatives considered)

**Attachments:** Indemnification Agreement,  
Contract Routing Form

Exhibit A (General Agreement of Indemnity),



# CONTRACT ROUTING SHEET

Agenda Item No.: \_\_\_\_\_  
 Board Review Date: 4/10/2019

## CONTRACT SECTION

- 1) Contract/P.O. No. 19-03028 (Assigned by Purchasing) Contract Administrator: Teresa Pickett  
 Project Manager: Paul Drake
- 2) Contract Type  A. A&E/Design  B. Blanket PO  C. Construction  D. Goods  E. Modification  
 F. Other \_\_\_\_\_  G. Renewal  H. Services  I. Task Orders
- 3) Procurement Method  RFQ (Quote)  IFB (Low Bid)  RFQU (Qualification)  
 RFP (Best-value)  Sole source  Other: Indemnification
- 4) Contract Title Indemnification Agreement Sandy Towers West East
- 5) Description / Purpose (of contract or project) Indemnification Agreement with Sandy Towers East for the Sandy Towers West parcel.
- 6) Contractor Name Sandy Towers East
- 7) Effective Dates Beginning: 04/10/19 Ending: 12/31/19
- 8) Option to renew?  Yes  No Renewal terms N/A

## FINANCIAL SECTION

- 9) Total Board Approval Amount:
- 9a) Current Contract Value: Zero
- 9b) Amendment Amount: \_\_\_\_\_
- 9c) New Contract Value (including all amendments) Zero
- 9d) Is the amount an estimate?  Yes  No  
 (Estimate if per transaction cost)
- 9e) If estimated, how was the estimate calculated? N/A
- 10) Is the amount a one-time purchase or annual recurring purchase?  One-time  Recurring
- 11) Account Code N/A Capital Project Code N/A
- 12) Budgeted?  Yes  No Budget amount: N/A
- 13) Will this contract require support from another department?  Yes  No
- 14) If so, is the other department(s) aware of this contract and the required support?  Yes  No
- 15) If box 2a or 2c is checked, has the Qualified Health Insurance Certificate been verified? N/A  Yes  No

## SIGNATURE SECTION

	Route to?		Initials	
Attorney/Legal	<input checked="" type="checkbox"/> Yes		<input type="text"/>	<u>[Signature]</u>
Accounting Review	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="text"/>	<u>N/A</u>
IT Review (IT software or hardware)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="text"/>	<u>N/A</u>
Up to \$10K Manager/Program Manager	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="text"/>	<u>N/A</u>
Up to \$50K Dir, Sr. Mgr, RGM, or Chief/VP	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	<input type="text"/>	<u>N/A</u>
Up to \$100K Chief/VP, or Dir, Sr. Mgr, RGM (Capital, Maint., Ops. only)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="text"/>	<u>[Signature]</u>
Over \$100K Executive Director	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="text"/>	<u>W. Steve Meyer</u>
Over \$200K Board Approval	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="text"/>	<u>Approval Date</u>

If Yes, route to the Sr. Supply Chain Manager for board meeting agenda and approval

## INDEMNIFICATION AGREEMENT

This Indemnification Agreement (this “*Agreement*”) is made as of this \_\_02\_\_ day of April, 2019 by and between Utah Transit Authority, a transit district organized under the Utah Public Transit District Act (“*UTA*”), and Sandy Towers East, LLC, a Utah limited liability company (“*STE*”).

### RECITALS

A. UTA is the owner of certain real property located in Salt Lake County, Utah, that will be benefitted by the improvement of the Sandy Box Culvert Canal (the “*Canal Improvement Project*”).

B. Salt Lake City has jurisdiction over the affected portion of the Sandy Box Culvert Canal and requires that a completion bond in the amount of \$1,702,440.00 (the “*Bond*”) be posted for the Canal Improvement Project.

C. Travelers Casualty and Surety Company of America (“*Travelers*”) is willing to issue the Bond, subject to certain terms and conditions, one of which is that UTA execute and deliver a General Agreement of Indemnity – Single Project, in the form attached hereto as Exhibit A (the “*Travelers Indemnity Agreement*”), for the benefit of Travelers.

D. UTA is willing to execute and deliver the Travelers Indemnity Agreement on the condition that STE indemnify UTA for any claims and losses incurred by UTA under the Travelers Indemnity Agreement.

E. STE is willing to indemnify UTA for any such claims and losses, as set forth in more detail below.

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, UTA and STE agree as follows:

### AGREEMENT

1. **Indemnity.** STE shall indemnify UTA for, and shall pay on demand, any and all losses, liabilities, damages, costs and expenses (collectively “*Losses*”) suffered or incurred by UTA arising out of any claim, demand or cause of action made by Travelers against UTA under the Travelers Indemnity Agreement; provided, however, that such indemnification shall not apply to, and STE shall have no liability under this Agreement for, any Losses to the extent such Losses result from a breach by UTA of its obligations under the Travelers Indemnity Agreement or UTA’s gross negligence or willful misconduct.

2. **No Modification to Travelers Indemnity Agreement.** As UTA’s risk under the Travelers Indemnity Agreement is being borne by STE pursuant to this Agreement, UTA agrees

no to cause or permit any modification to the Travelers Indemnity Agreement to occur without the prior written consent of STE.

3. **Term.** The obligations of STE hereunder shall survive and remain in effect until the Bond expires or has been released.

4. **Miscellaneous.**

4.1 This Agreement contains the entire understanding between the parties hereto with respect to the subject matter hereof and supersedes any prior understandings, agreements or representations, written or oral, relating to the subject matter hereof.

4.2 This Agreement shall be governed by, and construed in accordance with, the laws of the State of Utah.

4.3 UTA's rights under this Agreement may not be assigned or transferred, in whole or in part, without STE's prior written consent, and any purported assignment of this Agreement by UTA without STE's written consent shall be void and of no force and effect.

4.4 This Agreement may be executed in any number of counterparts and by different parties in separate counterparts by original or electronic signature, each of which when so executed and delivered shall be deemed to be an original, and all of such counterparts taken together shall constitute but one and the same instrument.

4.5 This Agreement may be amended or modified only by an instrument in writing which by its express terms refers to this Agreement and which is duly executed by the party sought to be bound thereby.

4.6 This Agreement is entered into between the parties hereto for the exclusive benefit of UTA. This Agreement is expressly not intended for the benefit of any creditor of any party hereto or any other individual or entity. Except and only to the extent expressly provided by applicable statute, no such creditor or third party shall have any rights under this Agreement.

*[Remainder of page intentionally left blank. Signature page follows immediately.]*

IN WITNESS WHEREOF, this Indemnification Agreement is executed by the parties to be effective for all purposes as of the date first above written.

**UTAH TRANSIT AUTHORITY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: Robert K. Bites  
Name: Robert K. Bites  
Title: CFO

Approved as to form:

Dan M. Wilkins  
Counsel for the Authority

**SANDY TOWERS EAST, LLC**

By: HP Sandy Towers East LLC, its Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: Millrock Partners, LLC, its Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

**TRAVELERS INDEMNITY AGREEMENT**

(See attached.)

## General Agreement Of Indemnity

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA  
Hartford, Connecticut 06183

We the undersigned, individually and for and on behalf of all other Indemnitors, enter into this General Agreement of Indemnity ("Agreement") in favor of Company. Witnesseth:

**WHEREAS**, in the transaction of business, Bonds have heretofore been and/or may hereafter be executed by Company. In connection with the execution, delivery and/or assumption of obligations of such Bonds, Company requires complete indemnification.

**NOW, THEREFORE**, as an inducement to Company and in consideration of Company's execution and/or delivery of one or more Bonds, refraining from canceling one or more Bonds, and/or assumption of obligations by Company of one or more Bonds, and for other good and valuable consideration, the Indemnitors jointly and severally agree with Company as follows:

**1. Definitions:** For purposes of this Agreement, the following definitions apply, which definitions shall be equally applicable to both the singular and plural forms of such terms:

**Bond** - Any and all bonds, undertakings, guarantees, contractual obligations, and writings or statements of prequalification or commitment, including Modifications thereof, which Company has executed or procured, or for which Company has an obligation as a result of an asset purchase, acquisition, merger or like transaction, issued for or on behalf of: (a) any one or more of the Indemnitors (without regard to whether any such Indemnitor signed this Agreement), their respective present or future direct or indirect parent companies, subsidiaries and affiliates and all of their respective successors and assigns; (b) any present or future joint venture, co-venture, consortium, partnership, trust, association, limited liability company or other legal entity in which one or more of the persons or entities identified in sub-paragraph (a) above have an interest; (c) any other person or entity at the request of any of the Indemnitors; or (d) any combination of the above, whether executed or procured before, on, or after the execution of this Agreement. For the purpose of this definition, "Modifications" shall include but not be limited to renewals, substitutions, riders, endorsements, reinstatements, replacements, increases or decreases in penal sum, continuations, and extensions.

**Company** - Travelers Casualty and Surety Company of America, St. Paul Fire and Marine Insurance Company, any of their present or future direct or indirect parent companies, any of the respective present or future direct or indirect affiliates or subsidiaries of such companies and parent companies, and/or any of the aforementioned entities' successors or assigns.

**Contract** - Any contract or obligation the performance of which is guaranteed or covered either in whole or in part under a Bond.

**Default** - Any of the following shall constitute a Default: (a) a declaration of Contract default by any Obligee; (b) actual breach or abandonment of any Contract; (c) a breach of any provision of this Agreement; (d) failure to make payment of a properly due and owing bill in connection with any Contract; (e) Company's good faith establishment of a reserve; (f) improper diversion of Contract funds or any Indemnitor's assets to the detriment of Contract obligations; (g) any Indemnitor's becoming the subject of any proceeding or agreement of bankruptcy, receivership, insolvency, or creditor assignment, or actually becoming insolvent; (h) any Indemnitor's dying, becoming legally incompetent, being imprisoned, being convicted of a felony, or disappearing and being unable to be located; (i) any representation furnished to Company by or on behalf of any Indemnitor proving to have been materially false or misleading when made; and/or (j) any change in control or existence of any Indemnitor. Change in control means the addition or departure of any person or entity having a ten percent (10%) or greater ownership interest in any Indemnitor.

**Indemnitors** - Undersigned, all new indemnitors added to this Agreement by rider, their present and future direct and indirect subsidiaries, affiliates, and parent companies, and all of their successors and assigns, and any joint venture, co-venture, consortium, partnership, trust, association, limited liability company or other legal entity in which one or more of them are involved, whether in existence now or formed or acquired hereafter, and any entity that obtains Bonds from Company at the request of any of the aforementioned parties, or any combination of the above.

**Loss** - All loss and expense of any kind or nature, including attorneys' and other professional fees, which Company incurs in connection with any Bond or this Agreement, including but not limited to all loss and expense incurred by reason of Company's: (a) making any investigation in connection with any Bond; (b) prosecuting or defending any action in connection with any Bond, including any expenses incurred by Company to defend any extra-contractual claim where there has been no final adverse determination /adjudication of liability against Company on such claim; (c) obtaining the release of any Bond; (d) recovering or attempting to recover Property in connection with any Bond or this Agreement; (e) enforcing by litigation or otherwise any of the provisions of this Agreement; and (f) all interest accruing thereon at the maximum legal rate.

**Obligee** - Any person or entity in whose favor a Bond has been issued, and that person's or entity's successors and assigns.

**Property** - Indemnitors' rights, title and interest, whether now held or hereafter acquired in: (a) any Contract or contract, including but not limited to subcontracts let; (b) any and all sums due or which may hereafter become due under any Contract or contract, and all damage claims and proceeds related thereto; (c) all rights arising under any surety bonds or insurance policies; and (d) any and all accounts receivable, letters of credit, documents of title, bills of lading, warehouse receipts, machinery, plants, equipment, tools, materials, supplies, inventory, vehicles, hardware, software, machine tools, fixtures, office equipment, books, records, designs, licenses, patents, intellectual property, as-builts, construction drawings and documents, and all electronically stored information.

**2. Payment of Premium:** Indemnitors shall pay to Company all premiums for each Bond executed and all renewals and extensions thereof.

**3. Indemnification and Hold Harmless:** Indemnitors shall exonerate, indemnify and save Company harmless from and against all Loss. An itemized, sworn statement by an employee of Company, or other evidence of payment, shall be prima facie evidence of the propriety, amount and existence of Indemnitors' liability. Amounts due to Company shall be payable upon demand.

**4. Claim Settlement:** Company shall have the right, in its sole discretion, to determine for itself and Indemnitors whether any claim, demand or suit brought against Company or any Indemnitor in connection with or relating to any Bond shall be paid, compromised, settled, tried, defended or appealed, and its determination shall be final, binding and conclusive upon the Indemnitors. Company shall be entitled to immediate reimbursement for any and all Loss incurred under the belief it was necessary or expedient to make such payments.

**5. Collateral Security:** Indemnitors agree to deposit with Company, upon demand, an amount as determined by Company sufficient to discharge any Loss or anticipated Loss. Indemnitors further agree to deposit with Company, upon demand, an amount equal to the value of any assets or Contract funds improperly diverted by any Indemnitor. Sums deposited with Company pursuant to this paragraph may be used by Company to pay such claim or be held by Company as collateral security against any Loss or unpaid premium on any Bond. Company shall have no duty to invest, or provide interest on, the deposit. Indemnitors agree that Company would suffer irreparable damage and would not have an adequate remedy at law if Indemnitors fail to comply with the provisions of this paragraph.

**6. Remedies:** In the event of a Default, Indemnitors assign, convey and transfer to Company all of their rights, title and interests in Property, and Company shall have a right in its sole discretion to: (a) take possession of the work under any Contract and to complete said Contract, or cause, or consent to, the completion thereof; (b) immediately take possession of Indemnitors' Property, and utilize the Property for the completion of the work under the Contracts without payment for such use; (c) assert or prosecute any right or claim in the name of any Indemnitor and to settle any such right or claim as Company sees fit; (d) execute in the name of any Indemnitor, any instruments deemed necessary or desirable by Company to: (i) provide Company with title to assets, (ii) take immediate possession of Contract funds whether earned or unearned, (iii) collect such sums as may be due Indemnitors and to endorse in the name of Indemnitors, and (iv) collect on any negotiable instruments; (e) require any Obligee to withhold payment of Contract funds unless and until Company consents to its release; and/or (f) be subrogated to all the rights, remedies, properties, funds, securities and receivables relating to Indemnitors' Contracts or contracts and have the right to offset losses on any Contract or Bond against proceeds, funds, or property due from another Contract, bond or contract. Further, in the event of Default and upon demand Indemnitors shall direct that all payments, monies, and properties that are due or may become due on any Contract or contract be made payable to, and/or sent directly to, Company, and shall issue whatever writing or notices as deemed necessary by Company to effectuate the default and/or termination of any Contract.

**7. Joint and Several Liability:** The obligations of Indemnitors hereunder are joint and several. Company is authorized to settle with any one or more of the Indemnitors individually, and without reference to the others, and any such settlements shall not bar or prejudice actions by Company against or affect the liability of the other Indemnitors hereunder.

**8. Decline Execution:** Company has the right, for any reason, to decline to execute: (a) any Bond, including final Bonds where Company provided a bid Bond; (b) any Bond rider or consent authorizing any change to any Bond; and/or (c) any other consent of surety, without incurring any liability or waiving any right.

**9. Trust Fund:** All payments due or received for or on account of any Contract, whether or not in the possession of any Indemnitor, shall be held in trust as trust funds by Indemnitors for the benefit and payment of all obligations for which Company as beneficiary may be liable under any Bond. Company may open a trust account or accounts with a bank for the deposit of the trust funds. Upon demand, Indemnitors shall deposit therein all trust funds received. Withdrawals from such trust accounts shall require the express consent of Company.

**10. Books, Records and Credit:** Indemnitors shall furnish upon demand, and Company shall have the right of free access to, at reasonable times, the records of Indemnitors including, but not limited to, books, papers, records, documents, contracts, reports, financial information, accounts and electronically stored information, for the purpose of examining and copying them. Indemnitors expressly authorize Company to access their credit records, including, but not limited to, account numbers and/or account balances from financial institutions. To the extent required by law, Indemnitors, upon request, shall be informed whether or not a consumer report has been requested by Company, and if so, of the name and address of the consumer reporting agency furnishing the report.

**11. Attorney in Fact:** Indemnitors irrevocably constitute, appoint and designate Company as their attorney in fact with the right, but not the obligation, to exercise all rights of Indemnitors assigned or granted to Company and to execute and deliver any other assignments, documents, instruments or agreements deemed necessary by Company to exercise its rights under this Agreement in the name of any Indemnitor.

**12. Security Interest:** As security for their obligations hereunder, Indemnitors hereby grant to Company a security interest in the following properties, assets and rights of Indemnitors, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof: all goods (including inventory, equipment and any accessions thereto), instruments (including promissory notes), documents, accounts, chattel paper, deposit accounts, letter-of-credit rights, securities and all other investment property, supporting obligations, any Contract or contract rights or rights to the payment of money, insurance claims and proceeds, and all general intangibles (the "Collateral"). This Agreement shall for all purposes constitute a Security Agreement for the benefit of Company in accordance with the Uniform Commercial Code ("UCC") and all similar statutes. Indemnitors hereby irrevocably authorize Company, without notice to any Indemnitor, in order to perfect the security interest granted herein, to file either: (a) this Agreement or a copy or other reproduction of this Agreement; or (b) any initial financing statements or amendments thereto that indicate the Collateral as all assets of Indemnitors or words of similar effect, as being of an equal or lesser scope or with greater detail and that contain any other information relating to any Indemnitor required by Part 5 of Article 9 of the UCC for the jurisdiction where such financing statement or amendment is filed. Company may add schedules or other documents to this Agreement as necessary to perfect its rights. The failure to file or record this Agreement or any financing statement shall not release or excuse any of the obligations of Indemnitors under this Agreement.

**13. Termination:** This is a continuing Agreement, which remains in full force and effect until terminated. The sole method available to Indemnitors to terminate their participation in this Agreement is by giving written notice to Company of Indemnitors' intent to terminate. Such notice shall be sent to Travelers Bond & Specialty Insurance, Attention: Construction Services – Bond, One Tower Square, Hartford, Connecticut 06183. The termination shall take effect thirty (30) days after Company receives such notice ("Termination Date"). The notice shall not relieve Indemnitor from its obligations for any Bond executed prior to the Termination Date or with respect to any Bond executed after the Termination Date: (a) upon the award of a Contract to any Indemnitor on a bid or proposal in respect of which Company has executed or procured a bid Bond prior to the Termination Date; or (b) which Company has become committed to execute or procure prior to the Termination Date; or (c) in connection with any maintenance, guarantee, claim, lien, litigation, or other matter involving or relating to any Bond executed prior to the Termination Date or thereafter executed or procured as provided in subparagraphs (a) or (b) above.

**14. Jurisdiction:** In any legal proceeding brought by or against Company that in any way relates to this Agreement, each Indemnitor, for itself and its property, irrevocably and unconditionally submits to the exclusive jurisdiction, at the sole and exclusive option of Company, of the courts in any state in which any Indemnitor resides, has property, or in which any Contract is performed. Indemnitors hereby irrevocably and unconditionally submit to the jurisdiction of said courts and waive and agree not to assert any claim that they are not subject to the jurisdiction of any such court, that such proceeding is brought in an inconvenient forum or that the venue of such proceeding is improper.

**15. Other Sureties:** If Company procures the execution of Bonds by other sureties, executes Bonds with co-sureties or obtains reinsurance, the provisions of this Agreement inure to the benefit of such other surety, co-surety or reinsurer, but only as to such Bonds.

**16. Nature of Rights:** If any provision or portion of this Agreement is or becomes unenforceable, this Agreement shall not be void, but shall be construed and enforced with the same effect as though such provision or portion were omitted. This Agreement is in addition to and not in lieu of any other agreement of indemnity, whether now existing or entered into hereafter. Company shall be entitled to specific performance of the terms of this Agreement in addition to any other remedy at law or equity. Time is of the essence in this Agreement. Whenever the context may require, any pronoun used in this Agreement shall include the corresponding masculine, feminine and neuter forms. The rights and remedies afforded to Company by the terms of this Agreement can only be modified by a written rider to this Agreement signed by an authorized representative of Company. If any Indemnitor fails to execute or improperly executes this Agreement or is otherwise found not to be bound under this Agreement, such failure or finding shall not affect the obligations of the other Indemnitors. The failure to sign or the improper execution of a Bond shall not affect Company's rights under this Agreement, and Indemnitors waive any claim they may have, now or at any time in the future, arising out of the failure to sign or properly execute a Bond. Termination and/or limitation of any Indemnitors' obligations under this Agreement shall in no way affect the obligations of any of the other Indemnitors whose obligations have not been terminated and/or limited. Indemnitors acknowledge this Agreement can be amended via rider to add another person, entity or entities as Indemnitor(s) to this Agreement and Indemnitors waive any and all notice in connection with the addition of additional Indemnitors and further acknowledge the rights and obligations provided herein shall apply to all Indemnitors whenever made a party to the Agreement.

**17. Jury Waiver:** Indemnitors hereby waive and covenant that they will not assert any right to trial by jury in respect to any legal proceeding arising out of this Agreement.

**18. Resolution:** Indemnitors have a substantial, material and beneficial interest: (a) in the obtaining of Bonds by any of the Indemnitors; and (b) in the transaction(s) for which any Indemnitor has applied or will apply to Company for Bonds pursuant to this Agreement. Indemnitors have the full power and authority to execute, deliver and perform this Agreement and to carry out the obligations stated herein. Indemnitors further acknowledge and agree that: (x) the execution, delivery and performance of this Agreement by such Indemnitors; (y) the compliance with the terms and provisions hereof; and (z) the carrying out of the obligations contemplated herein, do not, and will not, conflict with and will not result in a breach or violation of any terms, conditions or provisions of the charter documents or bylaws of such Indemnitors, or any law, governmental rule or regulation, or any applicable order, writ, injunction, judgment or decree of any court or governmental authority against Indemnitors, or any other agreement binding upon Indemnitors, or constitute a default thereunder.

**19. Date of Agreement:** The date of this Agreement shall be the earliest date any Indemnitor executes this Agreement.

**WE HAVE READ THIS INDEMNITY AGREEMENT CAREFULLY. THERE ARE NO SEPARATE AGREEMENTS OR UNDERSTANDINGS WHICH IN ANY WAY LESSEN OUR OBLIGATIONS AS ABOVE SET FORTH. IN TESTIMONY HEREOF, WE THE INDEMNITORS HAVE SET OUR HANDS AND FIXED OUR SEALS AS SET FORTH BELOW.**

- IMPORTANT:**
1. PRINT OR TYPE NAMES UNDER EACH SIGNATURE.
  2. ALL PERSONAL INDEMNITORS MUST PROVIDE A RESIDENTIAL ADDRESS AND SOCIAL SECURITY NUMBER AND EACH SIGNATURE MUST BE NOTARIZED.
  3. ALL ENTITY INDEMNITORS MUST PROVIDE AN ADDRESS AND FEDERAL TAX IDENTIFICATION NUMBER, IF APPLICABLE, AND EACH SIGNATURE MUST BE NOTARIZED.



Sandy Towers East, LLC

Indemnitor – Limited Liability Company  
By \_\_\_\_\_ (Seal)  
(Signature of Authorized Official)

W. Steve Meyer, Interim Executive Director of UTAH TRANSIT AUTHORITY, A DISTRICT ORGANIZED UNDER THE UTAH PUBLIC TRANSIT DISTRICT ACT, a member  
(Print or Type Name and Title)  
669 West 200 South, Salt Lake City, Utah 84111  
(Address)

(Federal Tax ID) \_\_\_\_\_ Month/Day/Year  
By Robert K. Biles (Seal)  
(Signature of Authorized Official)

Robert K. Biles, Chief Financial Officer of UTAH TRANSIT AUTHORITY, A DISTRICT ORGANIZED UNDER THE UTAH PUBLIC TRANSIT DISTRICT ACT, a member  
(Print or Type Name and Title)  
Utah  
(State of Incorporation / Formation)

Doug Wilkins

UTA attorney confirming the ability of the above individuals to sign on behalf of UTA  
Please print and sign

ACKNOWLEDGEMENT

STATE OF Utah County of \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 2019, before me personally appeared W. Steve Meyer, Interim Executive Director of UTAH TRANSIT AUTHORITY, known \_\_\_\_\_ or proven \_\_\_\_\_ to me to be the Member of the entity executing the foregoing instrument ("Entity"), and Robert K. Biles, Chief Financial Officer of UTAH TRANSIT AUTHORITY, known or proven to me to be the Member of the Entity, and they acknowledged said instrument to be the free and voluntary act and deed of Entity for the uses and purposes therein mentioned and on oath stated that the seal affixed is the seal of Entity and that it was affixed and that they executed said instrument by authority of Entity. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my OFFICIAL SEAL the day and year first above written.

\_\_\_\_\_  
Notary Public (signature)

\_\_\_\_\_  
Notary Public (print or type)

Notary Public residing at:

Commission expires:

**If Indemnitor a Single Member Limited Liability Company, sign below:**

Instructions: All signatures must be notarized.

The undersigned hereby affirms to Company as follows: I am the Sole Member and Manager of the Limited Liability Company on whose behalf I am executing this Agreement. In such capacity I am familiar with all of the documents which set forth and establish the rights which govern the affairs, power and authority of such business entity including, to the extent applicable, the bylaws and operating or limited liability agreements of such business entity. Having reviewed all such applicable documents and instruments and such other facts as deemed appropriate, I hereby affirm that such entity has the power and authority to enter into this Agreement and that I am duly authorized to execute this Agreement on behalf of said entity.

**Sandy Towers East LLC**

Indemnitor – Limited Liability Company

(Federal Tax ID)

Month/Day/Year

By \_\_\_\_\_ (Seal)  
(Signature of Authorized Officer)

**Utah**  
(State of Incorporation / Formation)

**Bruce Bingham, Manager/Member of HP SANDY TOWERS EAST LLC, a member and manager**  
(Print or Type Name and Title)

**222 South Main Street, Suite 1760, Salt Lake City, Utah 84101**  
(Address)

**ACKNOWLEDGEMENT**

STATE OF Utah County of \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 2019, before me personally appeared Bruce Bingham, Manager/Member of HP SANDY TOWERS EAST LLC, known or proven to me to be the Member and Manager of the Limited Liability Company (hereinafter referred to as "Entity") executing the above instrument, and acknowledged said instrument to be the free and voluntary act and deed of said Entity, for the uses and purposes therein mentioned and on oath stated that the seal affixed is the seal of said Entity and that it was affixed and that they executed said instrument by authority of said Entity. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my OFFICIAL SEAL the day and year first above written.

\_\_\_\_\_  
Notary Public (signature)

\_\_\_\_\_  
Notary Public (print or type)

Notary Public residing at:

Commission expires:

**Sandy Towers East LLC**

Indemnitor – Limited Liability Company

(Federal Tax ID)

Month/Day/Year

By \_\_\_\_\_ (Seal)  
(Signature of Authorized Officer)

**Utah**  
(State of Incorporation / Formation)

**Andrew Bybee, Manager/Member of MILLROCK PARTNERS, LLC, a member and manager**  
(Print or Type Name and Title)

**P.O. Box 71405, Salt Lake City, Utah 84171**  
(Address)

**ACKNOWLEDGEMENT**

STATE OF Utah County of \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 2019, before me personally appeared Andrew Bybee, Manager/Member of MILLROCK PARTNERS, LLC, known or proven to me to be the Member and Manager of the Limited Liability Company (hereinafter referred to as "Entity") executing the above instrument, and acknowledged said instrument to be the free and voluntary act and deed of said Entity, for the uses and purposes therein mentioned and on oath stated that the seal affixed is the seal of said Entity and that it was affixed and that they executed said instrument by authority of said Entity. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my OFFICIAL SEAL the day and year first above written.

\_\_\_\_\_  
Notary Public (signature)

\_\_\_\_\_  
Notary Public (print or type)

Notary Public residing at:

Commission expires:

## Detailed Contract Description & Purpose

**Board Review Date:** 4/10/2019

**Document Type:** Change Order

**Action Requested:** Motion to approve the contract or change order

**Criteria:** Contract is \$200,000 - \$999,999

**Contract Title:** Legal Services

**Contract #** 17-2011JH

**Project Manager:** TBD - Was Bart Simmons

**Contract Administrator:** Jolene Higgins

**Impacted Areas:**

**Included in budget?** Yes

**Procurement method:** Sole-Source

**Contractor:** 24 Law Firms

**Sole-Source Reason:** Unacceptable Delay

**Qty & Unit price** TBD

**Change Order Value** \$200,000

**Total Contract Value** \$855,864

**Contract term (Months)** 12

**Contract Start Date** 4/15/2019

**Contract options (Months)** 0

**Contract End Date:** 4/14/2020

**Number of responding firms:** 27

**\$ Value of Next Lowest Bidder** NA

### General Description & Purpose:

The purpose for this change order is to extend the current contract for Legal Services. UTA selected a panel of qualified Attorneys and Law Firms for several general categories of legal services through an RFP process to provide legal services on an on-call and as-needed basis. That contract expires 4/14/19. This extension will allow UTA to pay for current on-going litigation and the ability to retain legal counsel for any upcoming litigation. UTA Supply Chain and the Attorney General's Office have determined that the need for these services will be ongoing and will work together to issue a future request for proposal (RFP) for legal services. A new legal services contract is expected to be in place before the expiration of this contract extension.

(Items to include: Current condition, Benefits, Return on investment, Savings, Other alternatives considered)

**Attachments:** Contract routing sheet Yes

Contract Amendment, and Sole Source



# CONTRACT ROUTING SHEET

Agenda Item No.: \_\_\_\_\_  
 Board Review Date: \_\_\_\_\_

## CONTRACT SECTION

- 1) Contract/P.O. No. **17-2011JH** (Assigned by Purchasing) Contract Administrator: **Jolene Higgins**  
 Project Manager: **Bart Simmons**
- 2) Contract Type  A. A&E/Design  B. Blanket PO  C. Construction  D. Goods  E. Modification  
 F. Option  G. Renewal  H. Services  I. Task Orders
- 3) Procurement Method  RFQ (Quote)  IFB (Low Bid)  RFQU (Qualification)  
 RFP (Best-value)  Sole source  Other: \_\_\_\_\_
- 4) Contract Title **Legal Services Contract Amendment #1**
- 5) Description / Purpose (of contract or project) **This Amendment is to extend the current Agreements with 24 Law Firms contracted under RFP 17-2011JH. UTA selected a panel of qualified attorneys and law firms for several general categories of legal services through an RFP Process to provide Legal Services on an on-call and as-needed basis.**
- 6) Contractor Name **See attached**
- 7) Effective Dates Beginning: **04/15/19** Ending: **04/14/20**
- 8) Option to renew?  Yes  No Renewal terms \_\_\_\_\_

## FINANCIAL SECTION

- 9) Total Board Approval Amount: \_\_\_\_\_
- 9a) Current Contract Value: **655864**
- 9b) Amendment Amount: **200000**
- 9c) New Contract Value (including all amendments) **855864**
- 9e) Is the amount an estimate?  Yes  No  
 (Estimate if per transaction cost)
- 9f) If estimated, how was the estimate calculated? **The estimate was based on last year's spend and the anticipated work.**
- 10) Is the amount a one-time purchase or annual recurring purchase?  One-time  Recurring
- 11) Account Code **1500.50353.97** Capital Project Code \_\_\_\_\_
- 12) Budgeted?  Yes  No Budget amount: \_\_\_\_\_
- 13) Will this contract require support from another department?  Yes  No
- 14) If so, is the other department(s) aware of this contract and the required support?  Yes  No
- 15) If box 2a or 2c is checked, has the Qualified Health Insurance Certificate been verified?  Yes  No

## SIGNATURE SECTION

	Route to?	Initials	Signature
Attorney/Legal	<input checked="" type="checkbox"/> Yes		<u>Lisa Bohman</u>
Accounting Review	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<u><del>Doran Steele</del> Troy Bingham</u>
IT Review (IT software or hardware)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<u>Print Name</u>
Up to \$10K Manager/Program Manager	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<u>Print Name</u>
Up to \$50K Dir, Sr. Mgr, RGM, or Chief/VP	<input type="checkbox"/> Yes <input type="checkbox"/> No		<u>Print Name</u>
Up to \$100K Chief/VP, or Dir, Sr. Mgr, RGM (Capital, Maint., Ops. only)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<u>Bob Biles</u>
Over \$100K Executive Director	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<u>Steve Meyer</u>
Over \$200K Board Approval	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		<u>Approval Date</u>

If Yes, route to the Sr. Supply Chain Manager for board meeting agenda and approval

March 28, 2019

RE: Contract #17-2011JH LEGAL SERVICES CONTRACT AMMENDMENT NO. 1

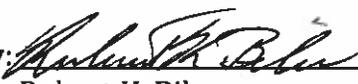
The purpose of this letter is to amend the Legal Services Contract dated May 23, 2017, Contract Number 17-2011JH. This letter (Amendment No.1) shall extend the current contract for one year, April 15, 2019 to April 14, 2020.

In the event UTA shall request or require any services from Firm(s) listed on the attachment (Exhibit A). UTA and the Attorney General's Office will contact such Firm(s) at the time such services are required. At that time, UTA will enter into a standard form of engagement letter with Firm(s) for the services to be rendered and will determine a fair and reasonable price. As noted in the RFP, all terms and conditions of the RFP and the information contained in the Firm(s) response thereto are incorporated and included and will be incorporated by reference in an engagement letter.

If you are in agreement with the above referenced amendment, please sign on the line indicated below.

UTAH TRANSIT AUTHORITY

By: \_\_\_\_\_ Date: \_\_\_\_\_  
W. Steve Meyer  
Interim Executive Director

By:  Date: 4/2/19  
Robert K. Biles  
VP of Finance

Approved as to Form



UTA Legal Counsel



## **Exhibit A**

### **Legal Firms Participating in Legal Pool RFP 17-2011JH**

1. Apperson Crump
2. Blackburn Stoll
3. Fabian VanCott
4. Gillmore Bell
5. Hanson Bridgett
6. Holland and Hart
7. Holland and Knight
8. Jackson Lewis
9. Kaplan Kirsch
10. Littlefield & Peterson
11. Manning Curtis
12. Nossaman LLP
13. Parsons Behle
14. Ray Quinney
15. Richards Brandt
16. Shulman Rogers
17. Snow Christensen
18. Stoel Rives LLP
19. Strong & Hanni
20. TechLaw Ventures
21. Thompson Coburn LLP
22. Venable LLP
23. Wes Felix Law
24. Zimmerman Jones

## Detailed Contract Description & Purpose

**Board Review Date:** 4/10/2019

**Document Type:** Pre-Procurement

**Action Requested:** Pre-Procurement (information only)

**Criteria:** Contract is \$200,000 - \$999,999

**Contract Title:** Point of the Mountain Transit  
Project - Alternatives Analysis

**Contract #** TBD

**Project Manager:** Patti Garver

**Contract Administrator:** Teresa Pickett

**Impacted Areas:** Point of the Mt., CapDev,  
Sandy, Draper, South Jordan,  
Lehi, WFRC, MAG, UDOT

**Included in budget?** Yes

**Procurement method:** Request for Qualifications

**Contractor:** TBD

**Sole-Source Reason:** N/A

**Qty & Unit price**  
**Change Order Value**  
**Total Contract Value** \$800,000

**Contract term (Months)** 12

**Contract Start Date** 5/1/2019

**Contract options (Months)** 36

**Contract End Date:** 4/30/2020

**Number of responding firms:** TBD

**\$ Value of Next Lowest Bidder** TBD

### **General Description & Purpose:**

The Point of the Mountain Vision Study identified several critical transportation improvement projects. As a result of a subsequent Transportation Analysis of the critical projects, UTA, UDOT and the Municipal Planning Organizations (MPOs) determined to complete an Alternatives Analysis to identify a preferred rapid transit connection between Sandy and Lehi, including connections to the TRAX Blue Line, the existing Utah State Prison site in Draper, and the FrontRunner Draper Station. UTA will initiate a request for qualifications (RFQ) for the Alternatives Analysis project. The total estimated cost of the contract is \$800,000. UTA funding is set at \$50,000 in the 2019 capital budget and the remainder of the funds will come from UTA partners (UDOT, MAG, WFRC, and Salt Lake County), and additional sources yet to be determined.

(Items to include: Current condition, Benefits, Return on investment, Savings, Other alternatives considered)

**Attachments:** Contract routing sheet