

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



Wednesday, October 7, 2020, 9:30 a.m.

Remote Electronic Meeting – No Anchor Location – Live-Stream at

[https://www.youtube.com/results?search\\_query=utaride](https://www.youtube.com/results?search_query=utaride)

**NOTICE OF SPECIAL MEETING CIRCUMSTANCES DUE TO COVID-19 PANDEMIC:**

In keeping with recommendations of Federal, State, and Local authorities to limit public gatherings in order to control the continuing spread of COVID-19, and in accordance with the Utah Open and Public Meetings Act, specifically Utah Code § 52-4-207(4), the UTA Board of Trustees will make the following adjustments to our normal meeting procedures.

- All members of the Board of Trustees and meeting presenters will participate electronically via phone or video conference.
- **Public Comment** will not be taken during the meeting but may be submitted through the means listed below. Comments submitted before 4:00 p.m. on Tuesday, October 6<sup>th</sup>, will be distributed to board members prior to the meeting:
  - online at <https://www.rideuta.com/Board-of-Trustees>
  - via email at [boardoftrustees@rideuta.com](mailto:boardoftrustees@rideuta.com)
  - by telephone at 801-743-3882 option 5 (801-RideUTA option 5) – specify that your comment is for the board meeting.
- Meeting proceedings may be viewed remotely through YouTube live-streaming.  
[https://www.youtube.com/results?search\\_query=utaride](https://www.youtube.com/results?search_query=utaride)

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|---|--|
| <b>1. Call to Order and Opening Remarks</b>   | <b>Chair Carlton Christensen</b>   |
| <b>2. Safety First Minute</b>   | <b>Sheldon Shaw</b>  |
| <b>3. Consent</b><br>a. Approval of September 23, 2020 Board Meeting Minutes  | <b>Chair Carlton Christensen</b>   |
| <b>4. Agency Report</b><br>a. Autonomous Vehicle Shuttle Pilot Update<br>b. Suicide Prevention Update   | <b>Carolyn Gonot</b>   |
| <b>5. Financial Report – August 2020</b>  | <b>Bill Greene,<br/>Brad Armstrong</b>   |
| <b>6. Discussion Items</b><br>a. Little Cottonwood Canyon Environmental Impact Statement (EIS) Process Overview<br>b. Draft UTA Fare Policy and Rates, Title VI Fare Equity Analysis, and Public Involvement Report | <b>Laura Hanson,<br/>Josh Van Jura (UDOT)<br/>Monica Morton, Megan Waters, Andrew Gray</b> |

Website: <https://www.rideuta.com/Board-of-Trustees>

Live Streaming: [https://www.youtube.com/results?search\\_query=utaride](https://www.youtube.com/results?search_query=utaride)

**7. Resolutions**

- a. R2020-10-01 Resolution approving the Title VI 2020 Fare Equity Analysis Andrew Gray

**8. Contracts, Disbursements and Grants**

- a. Contract: Mt. Ogden Bus Lift Replacement (Steril Koni) Dave Hancock, Kevin Anderson
- b. Contract: Learning Management System (SumTotal) Kim Ulibarri, Alisha Garrett

**9. Service and Fare Approvals**

- a. Election Day Free Fare on Tuesday, November 3, 2020 Monica Morton

**10. Other Business**

**Chair Carlton Christensen**

- a. Next Meeting: Budget Work Session October 8, 2020 at 11:00 a.m.
- c. Board of Trustees invited to the Local Advisory Council Transit-Oriented Development Workshop: Wednesday, October 14, 2020 at 9:00 a.m.
- b. Next Regular Meeting: October 21, 2020 at 9:00 a.m.

**11. Adjourn**

**Chair Carlton Christensen**

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**Special Accommodation:** Information related to this meeting is available in alternate format upon request by contacting [callredge@rideuta.com](mailto:callredge@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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**UTAH TRANSIT AUTHORITY  
ELECTRONIC BOARD MEETING DETERMINATION**

Consistent with provisions of the Utah Open and Public Meetings Act, specifically UTAH CODE § 52-4-207(4), and acting in my capacity as the Chair of the Board of Trustees ("Board") of the Utah Transit Authority ("UTA"), I hereby make the following written determinations in support of my decision to hold and convene electronic meetings of the UTA Board without a physical anchor location:

1. Conducting Board and Board Committee meetings with an anchor location that is physically accessible for members of the public to attend in person presents a substantial risk to the health and safety of those who may be present at the anchor location.
2. This determination is based upon the following facts, among others:
  - a. The COVID-19 pandemic is ongoing and significant and continued community, person-to-person virus transmission continues to occur in the state of Utah; and
  - b. Federal, state, and local health authorities have adopted guidelines for the general public and businesses which encourage institutions and individuals to take precautions, including limiting in-person interactions and recommending increased virtual interactions.

This written determination takes effect on October 7, 2020, and is effective until midnight on November 6, 2020, (no more than 30 days after the effective date of this Declaration) and may be re-issued by future written determinations of the Chair of the Board at that or any other appropriate time.

Dated this 30 day of September, 2020.

  
\_\_\_\_\_  
Carlton Christensen Chair of the Board of Trustees



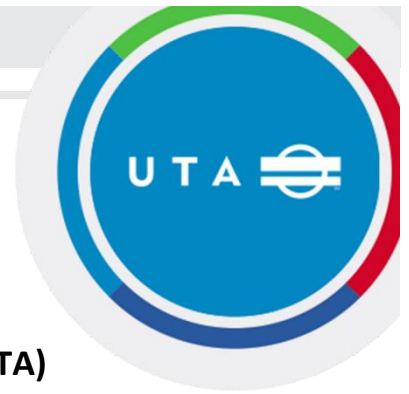
# MEMORANDUM TO THE BOARD

**TO:** Utah Transit Authority Board of Trustees  
**FROM:** Jana Ostler, Board Manager

**BOARD MEETING DATE:** October 7, 2020

<b>SUBJECT:</b>	<b>Approval of September 23, 2020 Board Meeting Minutes</b>
<b>AGENDA ITEM TYPE:</b>	<b>Consent</b>
<b>RECOMMENDATION:</b>	Approve the minutes of the September 23, 2020 Board of Trustees meeting
<b>BACKGROUND:</b>	A regular meeting of the UTA Board of Trustees was held electronically and broadcast live on YouTube on Wednesday, September 23, 2020 at 9:00 a.m. Minutes from the meeting document the actions of the Board and summarize the discussion that took place in the meeting. A full audio recording of the meeting is available on the <a href="#">Utah Public Notice Website</a> and video feed is available on You Tube at <a href="https://www.youtube.com/results?search_query=utaride">https://www.youtube.com/results?search_query=utaride</a>
<b>ATTACHMENTS:</b>	1) 2020-09-23_BOT_Minutes_unapproved





**Minutes of the Meeting  
of the  
Board of Trustees of the Utah Transit Authority (UTA)  
held remotely via phone or video conference  
and broadcast live for the public via YouTube  
September 23, 2020**

**Board Members Participating:**

Carlton Christensen, Chair  
Beth Holbrook  
Kent Millington

Also participating were members of UTA staff.

**Call to Order and Opening Remarks.** Chair Christensen welcomed attendees and called the meeting to order at 9:00 a.m. He then yielded the floor to Jana Ostler, UTA Board Manager, who read the electronic board meeting determination into the record as required by statute. The complete electronic board meeting determination is included as Appendix A to these minutes.

Chair Christensen mentioned today's meeting will be adjourned in memory of Andrea Knopp, UTA Communications Specialist, who passed away earlier this month after a battle with cancer.

**Public Comment.** It was noted that online comment received for the meeting was distributed to the board prior to the meeting and will be included as Appendix B to these minutes.

**Safety First Minute.** Kent Muhlestein, UTA Safety Administrator – Transit System, provided a brief safety message.

**Consent Agenda.** The consent agenda was comprised of:

- a. Approval of September 2, 2020 Board Meeting Minutes
- b. Approval of September 9, 2020 Special Board Meeting Minutes

A motion to approve the consent agenda was made by Trustee Millington and seconded by Trustee Holbrook. The motion carried unanimously.

### **Agency Report.**

**Chief Financial Officer.** Carolyn Gonot, UTA Executive Director, introduced William Greene, who recently joined the agency as Chief Financial Officer.

### **Resolutions.**

**R2020-09-04 Resolution Approving the Execution of an Interlocal Cooperation Agreement with Weber County and Ogden City for Right of Way Preservation Efforts to Extend Commuter Rail North of Ogden.** Manjeet Ranu, UTA Director of Capital Projects, was joined by Hal Johnson, UTA Manager of Project Development & Systems Planning. Mr. Johnson explained the resolution, which authorizes execution of an interlocal agreement detailing terms for right of way preservation north of Ogden. As part of the agreement, Weber County will award up to \$3,000,000 for right of way acquisition and survey work. Ogden City will lead the property purchase process. Should there be a time when UTA is ready to extend commuter rail to the north, UTA will purchase the right of way properties from Ogden City at the same price Ogden paid at the time of purchase. UTA will also refund the survey costs to the city.

Discussion ensued. Questions regarding buildings on certain properties included in the purchase, residential encroachment, and the projected timeline for extending commuter rail to the north were posed by the board and answered by staff.

A motion to approve R2020-09-04 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.

**R2020-09-05 Resolution Appointing William Greene as Officer and Treasurer of the Authority.** Chair Christensen stated the board's desire to appoint William Greene as Officer and Treasurer of the Authority.

A motion to approve R2020-09-05 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.

**R2020-09-06 Resolution Authorizing the Issuance and Sale by the Authority of Its Sales Tax Revenue Refunding Bonds in the Aggregate Principal Amount of Not to Exceed \$81,000,000; and Related Matters.** Troy Bingham, UTA Acting Chief Financial Officer, was joined by Brian Baker with Zions Public Finance and Randy Larsen with Gilmore Bell. Mr. Bingham described the resolution, which sets parameters for the sale of bonds and authorizes issuance of not more than \$81,000,000 in Series 2020B bonds, among other things. He also reviewed market rates, refunding considerations and projections, the agency's outstanding debt service, and current ratings.

Discussion ensued. Questions on market projections, type of sale (i.e., negotiated versus non-negotiated), and term of the resolution were posed by the board and answered by staff.

A motion to approve R2020-09-06 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.

**R2020-09-01 (Amended) Resolution Amending the Terms and Conditions of Employment for Executive Director Carolyn Gonot.** Chair Christensen indicated a numbering error was made in the original resolution (R2020-09-01) on the amendments in Ms. Gonot's employment contract. This amended resolution corrects that error.

A motion to approve R2020-09-01 (Amended) 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.

**Oath of Office.** The oath of office for officer and treasurer of the Authority was administered to William Greene.

#### **Contracts, Disbursement, and Grants.**

**Contract: Depot District Clean Fuels Technology Center Bus Lifts (Steril-Koni).** Mr. Ranu was joined by David Osborn, UTA Project Manager III. Mr. Osborn requested the board authorize a contract to purchase new bus lifts for the Depot District Clean Fuels Technology Center in the amount of \$1,936,737.74.

A motion to approve the contract was made by Trustee Holbrook and seconded by Trustee Millington. The motion carried unanimously.

**Contract: South Utah County Transit Analysis (Parametrix, Inc.).** Laura Hanson, UTA Director of Planning, asked the board to authorize a contract in the amount of \$479,822 for services to conduct a study to assess the demand and provide recommendations for transit service between Provo and Santaquin.

Discussion ensued. A question on the timeframe for completion 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.

**Change Order: On-Call Maintenance Task Order #124 Grade Crossing Panel/Tub Replacement/Rehabilitation – 11400 South (Stacy and Witbeck, Inc.).** Mr. Cumins was joined by David Hancock, UTA Director of Asset Management. Mr. Hancock requested the board approve a change order in the amount of \$225,040 to replace the TRAX grade crossing at 11400 South. This change order brings the total contract value to \$39,933,879.

With respect to the total contract value, it was mentioned that an incorrect contract value was listed on the board memo in the December 18, 2019 board meeting packet. The correct value has been listed on the board memos for subsequent change orders, including this one.

Discussion ensued. Questions on maximums in the main contract and street closures at 11400 South were posed by the board and answered by staff.

A motion to approve the change order was made by Trustee Holbrook and seconded by Trustee Millington. The motion carried unanimously.

**Pre-Procurements.** Todd Mills, UTA Sr. Supply Chain Manager, was joined by Mr. Hancock and Mr. Bingham. Mr. Mills said the agency intends to procure the following:

- i. Light Rail, Traction Power Sub-Station (TPSS) Rehabilitation
- ii. Holiday Employee Gift Cards
- iii. On-Call Infrastructure Maintenance
- iv. Financial Advisor

Discussion ensued. Questions on the emergency assessment capacity on the rehabilitated TPSS units, potential for TPSS data transmission during a power outage, inclusion of caps in the on-call infrastructure maintenance contract, anticipated level of competition for the maintenance contract, and impact of changing financial advisors during the bond sale were posed by the board and answered by staff.

### **Service and Fare Approvals.**

**Pass Purchase and Administration Agreement (Church of Jesus Christ of Latter-day Saints).** Monica Morton, UTA Fares Director, was joined by Kensey Kunkel, UTA Manager of Business Development – Sales. Ms. Morton explained the agreement for the purchase of discounted passes for up to 7,950 employees of the Church of Jesus Christ of Latter-day Saints (Church). The contract, which begins on October 1, 2020 and ends December 31, 2021, is valued at \$2,150,720.

Discussion ensued. Questions on the timeline for Church employees returning to in-office work and ridership considerations were posed by the board and answered by staff.

A motion to approve the agreement was made by Trustee Holbrook and seconded by Trustee Millington. The motion carried unanimously.

### **Other Business.**

**Upcoming Budget Work Sessions.** Work sessions for the 2021 budget are scheduled on the following dates:

- September 30, 2020 at 10:00 a.m.
- October 1, 2020 at 10:00 a.m.
- October 2, 2020 at 10:00 a.m.

**Next Regular Board of Trustees Meeting:** The next meeting of the board will be on Wednesday, October 7, 2020 at 9:00 a.m.

**Closed Session.** Chair Christensen indicated a closed session was needed to discuss the purchase, exchange, lease, or sale of real property. A motion for a closed session was made by Trustee Millington and seconded by Trustee Holbrook. The motion carried unanimously.

Chair Christensen called for a brief recess at 10:08 a.m.

The board entered closed session at 10:19 a.m.

**Open Session.** A motion to return to open session was made by Trustee Holbrook and seconded by Trustee Millington. The motion carried unanimously and the board returned to open session at 11:09 a.m.

**Adjournment.** The meeting was adjourned by motion in memory of Andrea Knopp at 11:10 a.m.

Transcribed by Cathie Griffiths  
Executive Assistant to the Board Chair  
Utah Transit Authority  
[cgriffiths@rideuta.com](mailto:cgriffiths@rideuta.com)  
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/630405.html> for entire content.*

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

Approved Date:

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Carlton J. Christensen  
Chair, Board of Trustees

## Appendix A

### UTAH TRANSIT AUTHORITY ELECTRONIC BOARD MEETING DETERMINATION

Consistent with provisions of the Utah Open and Public Meetings Act, specifically UTAH CODE § 52-4-207(4), and acting in my capacity as the Chair of the Board of Trustees ("Board") of the Utah Transit Authority ("UTA"), I hereby make the following written determinations in support of my decision to hold and convene electronic meetings of the UTA Board without a physical anchor location:

1. Conducting Board and Board Committee meetings with an anchor location that is physically accessible for members of the public to attend in person presents a substantial risk to the health and safety of those who may be present at the anchor location.
2. This determination is based upon the following facts, among others:
  - a. The COVID-19 pandemic is ongoing and significant and continued community, person-to-person transmission of the SARS-CoV-2 virus continues to occur in the state of Utah; and
  - b. Federal, state, and local health authorities have adopted guidelines for the general public and businesses which encourage institutions and individuals to take precautions, including limiting in-person interactions and recommending increased virtual interactions.

This written determination takes effect on August 24, 2020, and is effective until midnight on September 23, 2020, (no more than 30 days after the effective date of this Declaration) and may be re-issued by future written determinations of the Chair of the Board at that or any other appropriate time.

Dated this 21 day of August, 2020.

  
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Carlton Christensen, Chair of the Board of Trustees

## Appendix B

### Online Public Comment to the Board of Trustees of the Utah Transit Authority (UTA) Board Meeting

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**Received on September 22, 2020 from George Chapman:**

I am against funding and extending FrontRunner until there is a significant increase in ridership. It may turn out that the less than 5000 FrontRunner riders a day will not increase for years and spending hundreds of millions to extend FrontRunner (and/or double track and/or electrify it at \$2 billion) is not fiscally responsible. There has been no cost benefit analysis comparing bus service with this new project (extending it north of Ogden).

I am against the wasteful Clean Fuels bus garage since it ignores the potential efficiency of garages in the outlying areas so that buses don't spend their mornings and evenings empty going out to and coming from outlying areas. It does not make sense.

Any bond refunding money should not be used as an excuse to build more projects.

The server issues with certain routes that overload some and result in poor or old data sent to apps should be addressed. This has happened several times in the last few years.

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# MEMORANDUM TO THE BOARD

**TO:** Utah Transit Authority Board of Trustees  
**FROM:** Carolyn Gonot, Executive Director  
**PRESENTER(S):** Carolyn Gonot, Executive Director

**BOARD MEETING DATE:** October 7, 2020

<b>SUBJECT:</b>	<b>Agency Report</b>
<b>AGENDA ITEM TYPE:</b>	<b>Report</b>
<b>RECOMMENDATION:</b>	Informational report for discussion
<b>DISCUSSION:</b>	<p>Carolyn Gonot, UTA Executive Director will report on recent activities of the agency and other items of interest.</p> <ul style="list-style-type: none"><li>- Autonomous Vehicle Shuttle Pilot Update</li><li>- Suicide Prevention Update</li></ul>



## MEMORANDUM TO THE BOARD

**TO:** Utah Transit Authority Board of Trustees  
**THROUGH:** Carolyn Gonot, Executive Director  
**FROM:** Bill Greene, Chief Financial Officer  
**PRESENTER(S):** Bill Greene, Chief Financial Officer  
Brad Armstrong, Senior Manager Budget & Financial Analysis

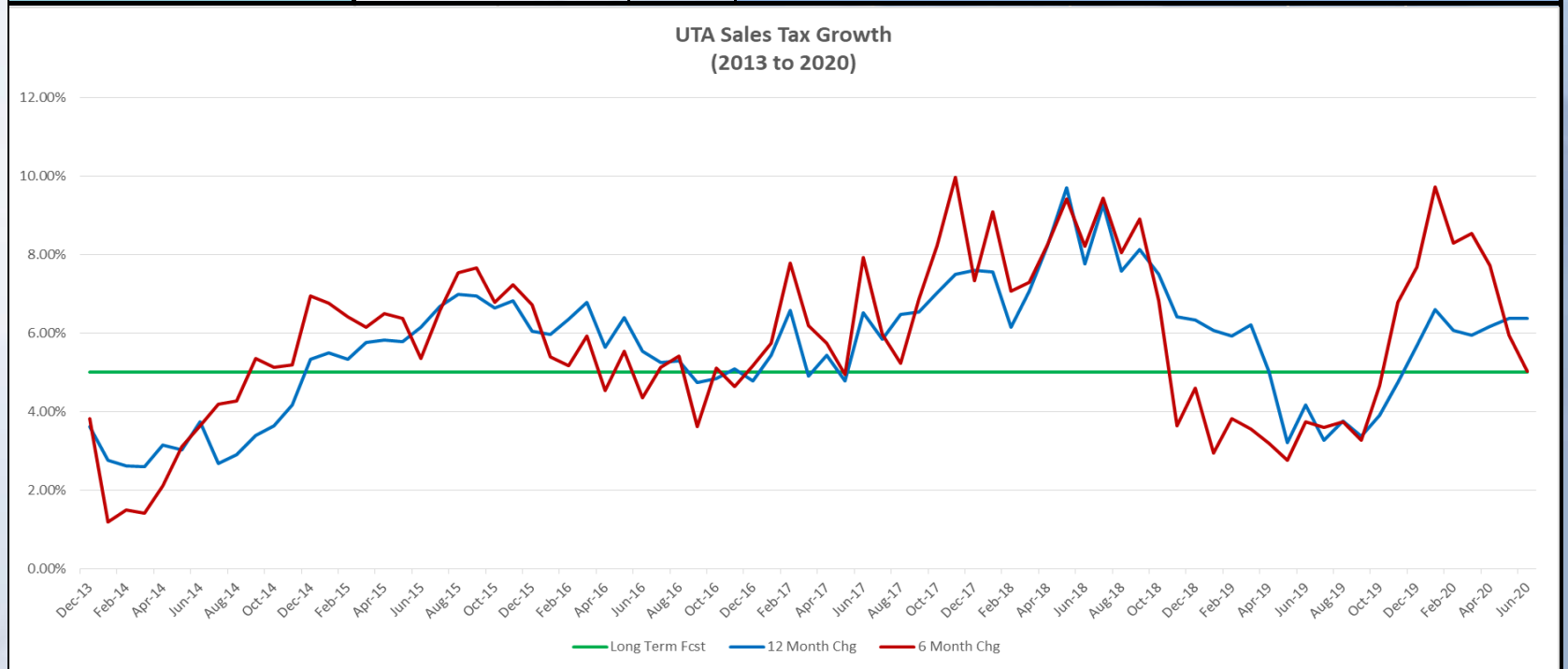
**BOARD MEETING DATE:** October 7, 2020

<b>SUBJECT:</b>	<b>Financial Report – August 2020</b>
<b>AGENDA ITEM TYPE:</b>	<b>Report</b>
<b>RECOMMENDATION:</b>	Informational report for discussion
<b>BACKGROUND:</b>	The Board of Trustees Policy No. 2.1, Financial Management, directs the Chief Financial Officer to present monthly financial statements stating the Authority’s financial position, revenues, and expense to the Board of Trustees as soon as practical with monthly and year-to-date budget versus actual report to be included in the monthly financial report. The August 2020 Monthly Financial Statements have been prepared in accordance with the Financial Management Policy and are being presented to the Board. Also provided, is the monthly Board Dashboard which summarizes key information from the August Monthly Financial Statements.
<b>DISCUSSION:</b>	At the October 7 meeting, the Senior Manager Budget and Financial Analysis will review the Board Dashboard key items, passenger revenues, sales tax collections, CARES Act funding amounts, and operating expense variances and receive questions from the Board of Trustees.
<b>ATTACHMENTS:</b>	<ul style="list-style-type: none"><li>• August 2020 Board Dashboard</li><li>• August 2020 Monthly Financial Statements</li></ul>

# UTA Board Dashboard

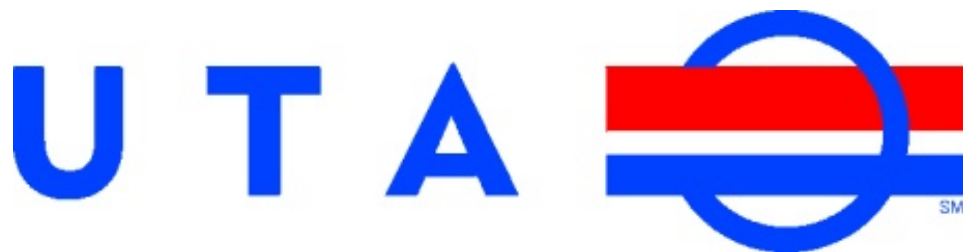
## August 2020

Financial Metrics	Aug		Fav/ (Unfav)		YTD		Fav/ (Unfav)	
	Actual	Budget		%	Actual	Budget		%
Sales Tax (June '20 mm \$)	\$ 33.4	\$ 32.5	\$ 0.88	2.7%	\$ 167.6	\$ 166.9	\$ 0.69	0.4%
Fare Revenue (mm)	\$ 1.7	\$ 4.6	\$ (2.91)	-62.8%	\$ 23.2	\$ 36.2	\$ (13.05)	-36.0%
Operating Exp (mm)	\$ 21.3	\$ 25.8	\$ 4.46	17.3%	\$ 187.8	\$ 207.7	\$ 19.90	9.6%
Subsidy Per Rider (SPR)	\$ 12.64	\$ 5.88	\$ (6.76)	-115.0%	\$ 9.70	\$ 5.88	\$ (3.82)	-65.0%
UTA Diesel Price (\$/gal)	\$ 1.52	\$ 2.50	\$ 0.98	39.2%	\$ 1.45	\$ 2.50	\$ 1.05	41.9%
Operating Metrics	Aug Actual	Aug-19	F/ (UF)	%	YTD Actual	YTD 2019	F/ (UF)	%
Ridership (mm)	1.55	3.80	(2.2)	-59.1%	16.96	28.75	(11.8)	-41.0%
Alternative Fuels	CNG Price (Diesel Gal Equiv)		\$ 1.39					



**Utah Transit Authority**  
**Financial Statement**  
(Unaudited)

August 31, 2020



KEY ITEM REPORT  
(UNAUDITED)  
As of August 31, 2020

EXHIBIT 1-1

	2020 YTD ACTUAL	2020 YTD BUDGET	VARIANCE FAVORABLE (UNFAVORABLE)	% FAVORABLE (UNFAVORABLE)
1 Sales Tax	\$ 220,887,110	\$ 225,250,464	\$ (4,363,354)	-2%
2 Passenger Revenue	23,180,785	36,230,093	(13,049,308)	-36%
3 Other Revenue	105,459,491	59,428,496	46,030,995	77%
4 <b>Total Revenue</b>	<b>349,527,386</b>	<b>320,909,053</b>	<b>28,618,333</b>	<b>9%</b>
5 Net Operating Expenses	(187,820,932)	(207,717,882)	19,896,950	10%
<b>Net Operating Income (Loss)</b>	<b>161,706,454</b>	<b>113,191,171</b>	<b>48,515,283</b>	<b>43%</b>
6 Debt Service	100,320,552	96,704,202	(3,616,350)	-4%
7 Other Non-Operating Expenses	3,072,497	4,295,995	1,223,498	28%
8 Sale of Assets	2,135,732	-	(2,135,732)	
9 <b>Contribution to Capital Reserves</b>	<b>\$ 56,177,673</b>	<b>\$ 12,190,975</b>	<b>\$ 43,986,698</b>	<b>361%</b>
10 Amortization	(1,081,239)			
11 Depreciation	88,763,829			
12 <b>Total Non-cash Items</b>	<b>\$ 87,682,590</b>			

GOALS

RIDERSHIP

2019 Actual	August 2020	August 2019	Difference	2020 YTD	2019 YTD	Difference
13 44,239,223	1,551,545	3,795,144	-2,243,599	16,964,489	28,751,007	-11,786,518

OPERATING SUBSIDY PER RIDER -

	SPR
14 Net Operating Expense	\$ 187,820,932
15 Less: Passenger Revenue	- (23,180,785)
16 Subtotal	164,640,147
17 Divided by: Ridership	÷ 16,964,489
18 Subsidy per Rider	<u>\$ 9.70</u>

SUMMARY FINANCIAL DATA  
(UNAUDITED)

EXHIBIT 1-2

As of August 31, 2020

**BALANCE SHEET**

	<u>8/31/2020</u>	<u>8/31/2019</u>
<b>CURRENT ASSETS</b>		
1 Cash	\$ 8,739,880	\$ 11,775,832
2 Investments (Unrestricted)	164,767,231	77,356,280
3 Investments (Restricted)	164,413,610	117,039,654
4 Receivables	65,170,354	63,994,049
5 Receivables - Federal Grants	17,645,556	42,593,852
6 Inventories	36,390,304	35,387,148
7 Prepaid Expenses	12,738	662,497
<b>8 TOTAL CURRENT ASSETS</b>	<b><u>\$ 457,139,673</u></b>	<b><u>\$ 348,809,312</u></b>
9 Property, Plant & Equipment (Net)	2,885,641,237	3,024,488,780
10 Other Assets	151,515,566	145,967,794
<b>11 TOTAL ASSETS</b>	<b><u>\$ 3,494,296,476</u></b>	<b><u>\$ 3,519,265,886</u></b>
12 Current Liabilities	42,484,858	45,134,697
13 Other Liabilities	32,901,674	29,170,309
14 Net Pension Liability	103,864,839	131,548,114
15 Outstanding Debt	2,452,272,533	2,401,331,916
16 Equity	862,772,572	912,080,850
<b>17 TOTAL LIABILITIES &amp; EQUITY</b>	<b><u>\$ 3,494,296,476</u></b>	<b><u>\$ 3,519,265,886</u></b>

**RESTRICTED AND DESIGNATED CASH AND CASH EQUIVALENTS RECONCILIATION**

<b>RESTRICTED RESERVES</b>		
18 Debt Service Reserves	3,825,627	38,367,421
19 2010/2015 Bond DSR Proceeds	24,157,366	
20 2018 Bond Proceeds	22,180,839	32,250,925
21 2019 Bond Proceeds	69,856,608	
22 Debt Service Interest Payable	25,478,429	21,269,354
23 Box Elder County ROW (sales tax)	6,947,632	7,486,590
24 Joint Insurance Trust	7,660,270	5,305,564
25 Davis County Escrow	1,149,162	1,218,930
26 SL County Escrow	207,764	-
27 Amounts held in escrow	2,949,913	11,140,870
<b>28 TOTAL RESTRICTED RESERVES</b>	<b><u>\$ 164,413,610</u></b>	<b><u>\$ 117,039,654</u></b>
<b>DESIGNATED GENERAL AND CAPITAL RESERVES</b>		
29 General Reserves	\$ 57,600,000	\$ 9,903,556
30 Service Sustainability Reserves	9,600,000	9,166,000
31 Capital Reserve	30,000,000	10,700,000
32 Debt Reduction Reserve	30,000,000	59,362,556
<b>33 TOTAL DESIGNATED GENERAL AND CAPITAL RESERVES</b>	<b><u>\$ 127,200,000</u></b>	<b><u>\$ 89,132,112</u></b>
<b>34 TOTAL RESTRICTED AND DESIGNATED CASH AND EQUIVALENTS</b>	<b><u>\$ 291,613,610</u></b>	<b><u>\$ 206,171,766</u></b>

SUMMARY FINANCIAL DATA  
(UNAUDITED)

EXHIBIT 1-3

As of August 31, 2020

REVENUE & EXPENSES

	ACTUAL Aug-20	ACTUAL Aug-19	YTD 2020	YTD 2019
<b>REVENUE</b>				
1 Passenger Revenue	\$ 1,724,525	\$ 4,395,991	\$ 23,180,785	\$ 35,262,609
2 Advertising Revenue	208,334	204,166	1,666,667	1,633,333
3 Investment Revenue	133,114	516,129	2,634,547	4,025,165
4 Sales Tax	41,564,834	28,437,187	220,887,110	197,197,136
5 Other Revenue	326,837	3,363,041	4,853,887	10,229,364
6 Fed Operations/Preventative Maint.	13,119,217	5,368,489	96,304,390	42,942,038
7 <b>TOTAL REVENUE</b>	<b>\$ 57,076,861</b>	<b>\$ 42,285,003</b>	<b>\$ 349,527,386</b>	<b>\$ 291,289,645</b>
<b>OPERATING EXPENSE</b>				
8 Bus Service	\$ 7,936,802	\$ 9,187,115	\$ 68,286,678	\$ 68,230,261
9 Commuter Rail	1,554,086	2,065,019	14,146,130	15,951,447
10 Light Rail	2,238,096	3,072,533	23,286,644	24,795,141
11 Maintenance of Way	1,460,895	1,679,926	12,179,378	11,672,876
12 Paratransit Service	1,789,826	2,016,739	14,841,431	14,877,404
13 RideShare/Van Pool Services	633,960	330,431	2,069,002	2,034,260
14 Operations Support	3,577,318	3,971,922	31,777,668	31,444,401
15 Administration	2,151,223	1,667,495	21,234,001	18,331,999
16 <b>TOTAL OPERATING EXPENSE</b>	<b>\$ 21,342,206</b>	<b>\$ 23,991,180</b>	<b>\$ 187,820,932</b>	<b>\$ 187,337,789</b>
17 <b>NET OPERATING INCOME (LOSS)</b>	<b>\$ 35,734,655</b>	<b>\$ 18,293,823</b>	<b>\$ 161,706,454</b>	<b>\$ 103,951,856</b>
<b>NON-OPERATING EXPENSE (REVENUE)</b>				
18 Planning & Development	\$ 333,719	\$ 280,258	\$ 3,072,497	\$ 3,087,775
19 Bond Principal	\$ 894,665	166,667	28,706,665	14,531,575
20 Bond Interest	7,464,390	7,892,472	63,203,288	63,532,402
21 Bond Interest UTCT	166,223	-	1,327,212	15,890,508
22 Bond Cost of Issuance/Fees	13,700	20,900	1,099,450	67,825
23 Lease Cost	798,182	624,787	5,983,937	5,226,340
24 Sale of Assets	(108,176)	(67,159)	2,135,732	(344,379)
25 <b>TOTAL NON-OPERATING EXPENSE</b>	<b>\$ 9,562,703</b>	<b>\$ 8,917,925</b>	<b>\$ 105,528,781</b>	<b>\$ 101,992,046</b>
26 <b>CONTRIBUTION TO CAPITAL RESERVES</b>	<b>\$ 26,171,952</b>	<b>\$ 9,375,898</b>	<b>\$ 56,177,673</b>	<b>\$ 1,959,810</b>
<b>OTHER EXPENSES (NON-CASH)</b>				
27 Bond Premium/Discount Amortization	(385,187)	(1,285,887)	(4,452,496)	(10,287,096)
28 Bond Refunding Cost Amortization	274,239	682,154	2,830,648	5,457,229
29 Future Revenue Cost Amortization	67,576	67,576	540,609	540,609
30 Depreciation	11,316,347	14,934,921	88,763,829	96,425,824
31 <b>NET OTHER EXPENSES (NON-CASH)</b>	<b>\$ 11,272,975</b>	<b>\$ 14,398,764</b>	<b>\$ 87,682,590</b>	<b>\$ 92,136,566</b>

CURRENT MONTH

	ACTUAL	BUDGET	VARIANCE	%
	Aug-20	Aug-20	FAVORABLE (UNFAVORABLE)	FAVORABLE (UNFAVORABLE)
<b>REVENUE</b>				
1 Passenger Revenue	\$ 1,724,525	\$ 4,634,636	\$ (2,910,111)	-63%
2 Advertising Revenue	208,334	209,154	(820)	0%
3 Investment Revenue	133,114	605,195	(472,081)	-78%
4 Sales Tax	41,564,834	29,782,307	11,782,527	40%
5 Other Revenue	326,837	3,411,437	(3,084,600)	-90%
6 Fed Operations/Preventative Maint.	13,119,217	5,146,734	7,972,483	155%
7 <b>TOTAL REVENUE</b>	<u>\$ 57,076,861</u>	<u>\$ 43,789,462</u>	<u>\$ 13,287,399</u>	30%
<b>OPERATING EXPENSE</b>				
8 Bus Service	\$ 7,936,802	\$ 8,998,107	\$ 1,061,305	12%
9 Commuter Rail	1,554,086	2,161,704	607,618	28%
10 Light Rail	2,238,096	3,170,303	932,207	29%
11 Maintenance of Way	1,460,895	1,584,120	123,225	8%
12 Paratransit Service	1,789,826	2,073,824	283,998	14%
13 RideShare/Van Pool Services	633,960	274,840	(359,120)	-131%
14 Operations Support	3,577,318	4,188,463	611,145	15%
15 Administration	2,151,223	3,351,568	1,200,345	36%
16 <b>TOTAL OPERATING EXPENSE</b>	<u>\$ 21,342,206</u>	<u>\$ 25,802,930</u>	<u>\$ 4,460,724</u>	17%
17 <b>NET OPERATING INCOME (LOSS)</b>	<u>\$ 35,734,655</u>	<u>\$ 17,986,533</u>	<u>\$ 17,748,122</u>	99%
<b>NON-OPERATING EXPENSE (REVENUE)</b>				
18 Planning & Development	\$ 333,719	\$ 550,822	\$ 217,103	39%
19 Bond Principal	894,665	36,667	(857,998)	-2340%
20 Bond Interest	7,464,390	7,647,695	183,305	2%
21 Bond Interest UTCT	166,223	166,776	553	0%
22 Bond Cost of Issuance/Fees	13,700	4,000	(9,700)	-243%
23 Lease Cost	798,182	790,300	(7,882)	-1%
24 Sale of Assets	(108,176)	-	108,176	
25 <b>TOTAL NON-OPERATING EXPENSE</b>	<u>\$ 9,562,703</u>	<u>\$ 9,196,260</u>	<u>\$ (366,443)</u>	-4%
26 <b>CONTRIBUTION TO CAPITAL RESERVES</b>	<u>\$ 26,171,952</u>	<u>\$ 8,790,273</u>	<u>\$ 17,381,679</u>	-198%
<b>OTHER EXPENSES (NON-CASH)</b>				
27 Bond Premium/Discount Amortization	(385,187)			
28 Bond Refunding Cost Amortization	274,239			
29 Future Revenue Cost Amortization	67,576			
30 Depreciation	11,316,347			
31 <b>NET OTHER EXPENSES (NON-CASH)</b>	<u>\$ 11,272,975</u>			



BUDGET TO ACTUAL REPORT  
(UNAUDITED)

EXHIBIT 1-5

As of August 31, 2020

YEAR TO DATE

	ACTUAL Aug-20	BUDGET Aug-20	VARIANCE FAVORABLE (UNFAVORABLE)	% FAVORABLE (UNFAVORABLE)
<b>REVENUE</b>				
1 Passenger Revenue	\$ 23,180,785	\$ 36,230,093	\$ (13,049,308)	-36%
2 Advertising Revenue	1,666,667	1,673,232	(6,565)	0%
3 Investment Revenue	2,634,547	4,593,030	(1,958,483)	-43%
4 Sales Tax	220,887,110	225,250,464	(4,363,354)	-2%
5 Other Revenue	4,853,887	8,411,476	(3,557,589)	-42%
6 Fed Operations/Preventative Maint.	96,304,390	44,750,758	51,553,632	115%
7 <b>TOTAL REVENUE</b>	<b>\$ 349,527,386</b>	<b>\$ 320,909,053</b>	<b>\$ 28,618,333</b>	<b>9%</b>
<b>OPERATING EXPENSE</b>				
8 Bus Service	\$ 68,286,678	\$ 72,758,776	\$ 4,472,098	6%
9 Commuter Rail	14,146,130	17,387,028	3,240,898	19%
10 Light Rail	23,286,644	25,408,191	2,121,547	8%
11 Maintenance of Way	12,179,378	12,437,210	257,832	2%
12 Paratransit Service	14,841,431	16,566,598	1,725,167	10%
13 RideShare/Van Pool Services	2,069,002	2,198,728	129,726	6%
14 Operations Support	31,777,668	33,575,240	1,797,572	5%
15 Administration	21,234,001	27,386,111	6,152,110	22%
16 <b>TOTAL OPERATING EXPENSE</b>	<b>\$ 187,820,932</b>	<b>\$ 207,717,882</b>	<b>\$ 19,896,950</b>	<b>10%</b>
17 <b>NET OPERATING INCOME (LOSS)</b>	<b>\$ 161,706,454</b>	<b>\$ 113,191,171</b>	<b>\$ 48,515,283</b>	<b>43%</b>
<b>NON-OPERATING EXPENSE (REVENUE)</b>				
18 Planning & Development	\$ 3,072,497	\$ 4,295,995	\$ 1,223,498	28%
19 Bond Principal	28,706,665	25,773,333	(2,933,332)	-11%
20 Bond Interest	63,203,288	63,234,772	31,484	0%
21 Bond Interest UTCT	1,327,212	1,331,398	4,186	0%
22 Bond Cost of Issuance/Fees	1,099,450	42,300	(1,057,150)	-2499%
23 Lease Cost	5,983,937	6,322,398	338,461	5%
24 Sale of Assets	2,135,732	-	(2,135,732)	
25 <b>TOTAL NON-OPERATING EXPENSE</b>	<b>\$ 105,528,781</b>	<b>\$ 101,000,196</b>	<b>\$ (4,528,585)</b>	<b>-4%</b>
26 <b>CONTRIBUTION TO CAPITAL RESERVES</b>	<b>\$ 56,177,673</b>	<b>\$ 12,190,975</b>	<b>\$ 43,986,698</b>	<b>-361%</b>
<b>OTHER EXPENSES (NON-CASH)</b>				
27 Bond Premium/Discount Amortization	(4,452,496)			
28 Bond Refunding Cost Amortization	2,830,648			
29 Future Revenue Cost Amortization	540,609			
30 Depreciation	88,763,829			
31 <b>NET OTHER EXPENSES (NON-CASH)</b>	<b>\$ 87,682,590</b>			

BUDGET TO ACTUAL REPORT  
(UNAUDITED)

EXHIBIT 1-5A

As of August 31, 2020

YEAR TO DATE

	ACTUAL	BUDGET	VARIANCE	%
	Aug-20	Aug-20	FAVORABLE (UNFAVORABLE)	FAVORABLE (UNFAVORABLE)
<b>OPERATING EXPENSE</b>				
1 Board of Trustees	\$ 1,601,048	\$ 1,899,459	\$ 298,411	16%
2 Chief Communications and Marketing Officer	5,903,697	7,113,879	1,210,182	17%
3 Chief Finance Officer	7,790,320	8,883,155	1,092,835	12%
4 Chief Operating Officer	154,045,881	166,612,266	12,566,385	8%
5 Chief People Officer	4,399,743	5,383,214	983,471	18%
6 Chief Service Development Officer	3,828,814	5,008,331	1,179,517	24%
7 Executive Director	13,323,926	17,113,573	3,789,647	22%
8 <b>TOTAL OPERATING EXPENSE</b>	<b>\$ 190,893,429</b>	<b>\$ 212,013,877</b>	<b>\$ 21,120,448</b>	<b>10%</b>
9 Total Operating Expense (Exhibit 1-5, line 16)	187,820,932	207,717,882		
10 Planning & Development (Exhibit 1-5, line 18)	3,072,497	4,295,995		
11 <b>TOTAL EXHIBIT 1-5</b>	<b>190,893,429</b>	<b>212,013,877</b>		

CAPITAL PROJECTS  
(UNAUDITED)  
As of August 31, 2020

EXHIBIT 1-6

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	2020 ACTUAL	ANNUAL BUDGET	PERCENT
<b>EXPENSES</b>			
1 REVENUE AND NON-REVENUE VEHICLES	\$ 2,774,930	\$ 34,827,260	8.0%
2 INFORMATION TECHNOLOGY	1,787,031	10,410,812	17.2%
3 FACILITIES, MAINTENANCE & ADMIN. EQUIP.	545,550	3,617,041	15.1%
4 CAPITAL PROJECTS	11,206,494	86,526,635	13.0%
5 AIRPORT STATION RELOCATION	3,846,176	11,000,000	35.0%
6 STATE OF GOOD REPAIR	11,398,004	26,112,394	43.6%
7 DEPOT DISTRICT	6,053,828	25,000,000	24.2%
8 OGDEN/WEBER STATE BRT	4,098,210	15,250,000	26.9%
9 TIGER	1,274,716	11,116,270	11.5%
10 TOTAL	<u>\$ 42,984,940</u>	<u>\$ 223,860,412</u>	19.2%
<b>REVENUES</b>			
11 GRANT	\$ 7,577,794	\$ 65,041,579	11.7%
12 STATE CONTRIBUTION	1,250,000	9,050,000	13.8%
13 LEASES (PAID TO DATE)	2,467,057	32,890,628	7.5%
14 BONDS	8,857,853	32,859,530	27.0%
15 LOCAL PARTNERS	958,701	21,136,839	4.5%
16 UTA FUNDING	21,873,536	62,881,836	34.8%
17 TOTAL	<u>\$ 42,984,940</u>	<u>\$ 223,860,412</u>	19.2%

FAREBOX RECOVERY & SPR  
(UNAUDITED)  
As of August 31, 2020

EXHIBIT 1-7

BY SERVICE

	CURRENT MONTH		YEAR TO DATE	
	Aug-20	Aug-19	2020	2019
<b>UTA</b>				
Fully Allocated Costs	21,342,207	23,991,180	187,820,933	187,337,789
Passenger Farebox Revenue	1,724,525	4,392,107	23,180,785	35,262,837
Passengers	1,551,545	3,795,144	16,964,489	28,751,007
Farebox Recovery Ratio	8.1%	18.3%	12.3%	18.8%
Actual Subsidy per Rider	\$12.64	\$5.16	\$9.70	\$5.29
<b>BUS SERVICE</b>				
Fully Allocated Costs	10,435,172	11,641,394	91,431,956	91,670,641
Passenger Farebox Revenue	749,672	1,523,307	10,517,818	13,398,294
Passengers	841,931	1,757,143	8,565,840	13,254,751
Farebox Recovery Ratio	7.2%	13.1%	11.5%	14.6%
Actual Subsidy per Rider	\$11.50	\$5.76	\$9.45	\$5.91
<b>LIGHT RAIL SERVICE</b>				
Fully Allocated Costs	5,378,982	6,358,453	51,304,767	51,305,659
Passenger Farebox Revenue	425,361	1,305,176	6,143,076	9,529,507
Passengers	524,408	1,425,689	6,026,196	10,845,305
Farebox Recovery Ratio	7.9%	20.5%	12.0%	18.6%
Actual Subsidy per Rider	\$9.45	\$3.54	\$7.49	\$3.85
<b>COMMUTER RAIL SERVICE</b>				
Fully Allocated Costs	2,770,598	3,315,146	25,088,651	24,646,210
Passenger Farebox Revenue	261,135	930,959	3,911,363	6,964,026
Passengers	113,193	453,738	1,546,191	3,379,341
Farebox Recovery Ratio	9.4%	28.1%	15.6%	28.3%
Actual Subsidy per Rider	\$22.17	\$5.25	\$13.70	\$5.23
<b>PARATRANSIT</b>				
Fully Allocated Costs	1,940,515	2,155,504	16,301,301	16,262,247
Passenger Farebox Revenue	37,947	299,477	251,179	2,768,206
Passengers	28,075	69,028	291,861	531,455
Farebox Recovery Ratio	2.0%	13.9%	1.5%	17.0%
Actual Subsidy per Rider	\$67.77	\$26.89	\$54.99	\$25.39
<b>RIDESHARE</b>				
Fully Allocated Costs	816,940	520,683	3,694,258	3,453,031
Passenger Farebox Revenue	250,410	333,188	2,357,349	2,602,804
Passengers	43,938	89,546	534,401	740,155
Farebox Recovery Ratio	30.7%	64.0%	63.8%	75.4%
Actual Subsidy per Rider	\$12.89	\$2.09	\$2.50	\$1.15

FAREBOX RECOVERY & SPR  
(UNAUDITED)  
As of August 31, 2020

EXHIBIT 1-8

BY TYPE

	CURRENT MONTH		YEAR TO DATE	
	Aug-20	Aug-19	2020	2019
<b>FULLY ALLOCATED COSTS</b>				
Bus Service	\$10,435,172	\$11,641,394	\$91,431,956	\$91,670,641
Light Rail Service	\$5,378,982	\$6,358,453	\$51,304,767	\$51,305,659
Commuter Rail Service	\$2,770,598	\$3,315,146	\$25,088,651	\$24,646,210
Paratransit	\$1,940,515	\$2,155,504	\$16,301,301	\$16,262,247
Rideshare	\$816,940	\$520,683	\$3,694,258	\$3,453,031
<b>UTA</b>	<b>\$21,342,207</b>	<b>\$23,991,180</b>	<b>\$187,820,933</b>	<b>\$187,337,789</b>
<b>PASSENGER FAREBOX REVENUE</b>				
Bus Service	\$749,672	\$1,523,307	\$10,517,818	\$13,398,294
Light Rail Service	\$425,361	\$1,305,176	\$6,143,076	\$9,529,507
Commuter Rail Service	\$261,135	\$930,959	\$3,911,363	\$6,964,026
Paratransit	\$37,947	\$299,477	\$251,179	\$2,768,206
Rideshare	\$250,410	\$333,188	\$2,357,349	\$2,602,804
<b>UTA</b>	<b>\$1,724,525</b>	<b>\$4,392,107</b>	<b>\$23,180,785</b>	<b>\$35,262,837</b>
<b>PASSENGERS</b>				
Bus Service	841,931	1,757,143	8,565,840	13,254,751
Light Rail Service	524,408	1,425,689	6,026,196	10,845,305
Commuter Rail Service	113,193	453,738	1,546,191	3,379,341
Paratransit	28,075	69,028	291,861	531,455
Rideshare	43,938	89,546	534,401	740,155
<b>UTA</b>	<b>1,551,545</b>	<b>3,795,144</b>	<b>16,964,489</b>	<b>28,751,007</b>
<b>FAREBOX RECOVERY RATIO</b>				
Bus Service	7.2%	13.1%	11.5%	14.6%
Light Rail Service	7.9%	20.5%	12.0%	18.6%
Commuter Rail Service	9.4%	28.1%	15.6%	28.3%
Paratransit	2.0%	13.9%	1.5%	17.0%
Rideshare	30.7%	64.0%	63.8%	75.4%
<b>UTA</b>	<b>8.1%</b>	<b>18.3%</b>	<b>12.3%</b>	<b>18.8%</b>
<b>ACTUAL SUBSIDY PER RIDER</b>				
Bus Service	\$11.50	\$5.76	\$9.45	\$5.91
Light Rail Service	\$9.45	\$3.54	\$7.49	\$3.85
Commuter Rail Service	\$22.17	\$5.25	\$13.70	\$5.23
Paratransit	\$67.77	\$26.89	\$54.99	\$25.39
Rideshare	\$12.89	\$2.09	\$2.50	\$1.15
<b>UTA</b>	<b>\$12.64</b>	<b>\$5.16</b>	<b>\$9.70</b>	<b>\$5.29</b>

SUMMARY OF ACCOUNTS RECEIVABLE  
(UNAUDITED)

EXHIBIT 1-9

As of August 31, 2020

Classification	Total	Current	31-60 Days	61-90 Days	90-120 Days	Over 120 Days
1 Federal Government <sup>1</sup>	\$ 17,645,556	\$ 17,645,556	\$ -	\$ -	\$ -	\$ -
2 Local Contributions <sup>2</sup>	56,032,586	56,032,586	-	-	-	-
3 Warranty Recovery	895,236	895,236	-	-	-	-
4 Product Sales and Development	1,214,682	1,225,150	10,133	(56,085)	2,136	33,348
5 Pass Sales	300,966	132,981	47,913	35,904	57,458	26,710
6 Property Management	124,718	75,652	18,419	3,221	235	27,191
7 Vanpool/Rideshare	142,573	6,643	51,116	873	(20,508)	104,449
8 Capital Development Agreements	3,861,275	1,407,170	1,735,224	355,924	6,674	356,283
9 Mobility Management	100	-	-	-	-	100
10 Paratransit	11,250	11,250	-	-	-	-
11 Other <sup>3</sup>	2,586,968	2,586,968	-	-	-	-
12 <b>Total</b>	<b>\$ 82,815,910</b>	<b>\$ 80,019,192</b>	<b>\$ 1,862,805</b>	<b>\$ 339,837</b>	<b>\$ 45,995</b>	<b>\$ 548,081</b>

Percentage Due by Aging

13 Federal Government <sup>1</sup>	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%
14 Local Contributions <sup>2</sup>	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%
15 Warranty Recovery	100.0%	0.0%	0.0%	0.0%	0.0%	0.0%
16 Product Sales and Development	100.9%	0.8%	-4.6%	0.2%	2.7%	
17 Pass Sales	44.2%	15.9%	11.9%	19.1%	8.9%	
18 Property Management	60.7%	14.8%	2.6%	0.2%	21.8%	
19 Vanpool/Rideshare	4.7%	35.9%	0.6%	-14.4%	73.3%	
20 Capital Development Agreements	36.4%	44.9%	9.2%	0.2%	9.2%	
21 Mobility Management	0.0%	0.0%	0.0%	0.0%	100.0%	
22 Paratransit	100.0%	0.0%	0.0%	0.0%	0.0%	
23 Other	100.0%	0.0%	0.0%	0.0%	0.0%	
24 <b>Total</b>	<b>96.6%</b>	<b>2.2%</b>	<b>0.4%</b>	<b>0.1%</b>	<b>0.7%</b>	

<sup>1</sup> Federal preventive maintenance funds, federal RideShare funds, and federal interest subsidies for Build America Bonds

<sup>2</sup> Estimated sales tax to be distributed upon collection by the Utah State Tax Commission

<sup>3</sup> Build American Bond Tax Credits

SUMMARY OF APPROVED DISBURSEMENTS OVER \$200,000  
 FROM AUGUST 1, 2020 THROUGH AUGUST 31, 2020  
 (UNAUDITED)

EXHIBIT 1-10

<u>Contract # and Description</u>	<u>Contract Date</u>	<u>Vendor</u>	<u>Check #</u>	<u>Date</u>	<u>Check Total</u>
R2020-04-02		ROCKY MOUNTAIN POWER	354521	8/5/2020	\$ 206,519.96
19-03057TP	12/20/2019	PAULSEN CONSTRUCTION, INC.	354522	8/5/2020	314,991.50
18-2705TP	5/4/2018	KIEWIT INFRASTRUCTURE WEST CO.	354638	8/12/2020	550,565.30
R2020-04-02		ROCKY MOUNTAIN POWER	354797	8/19/2020	403,340.13
R2020-04-02		SIEMENS MOBILITY, INC.	884679	8/19/2020	265,626.60
16-1846TP	10/7/2016	STACEY AND WITBECK, INC.	884680	8/19/2020	291,614.42
18-2931TP	12/31/2018	STANTEC ARCHITECTURE INC.	354896	8/26/2020	495,113.48
18-02925BM	8/1/2019	JACOBS ENGINEERING	354897	8/26/2020	702,457.30
18-2705TP	5/4/2018	KIEWIT INFRASTRUCTURE WEST CO.	354898	8/26/2020	732,033.58
14-1109TH	9/1/2014	MV PUBLIC TRANSPORTATION	884733	8/26/2020	269,090.82
19-03043BM	7/2/2019	VIA TRANSPORTATION INC.	884734	8/26/2020	272,768.28



## MEMORANDUM TO THE BOARD

**TO:** Utah Transit Authority Board of Trustees  
**THROUGH:** Carolyn Gonot, Executive Director  
**FROM:** Mary DeLoretto, Chief Service Development Officer  
**PRESENTER(S):** Josh Van Jura, Utah Department of Transportation

**BOARD MEETING DATE:** October 7, 2020

<b>SUBJECT:</b>	<b>Little Cottonwood Canyon Environmental Impact Statement (EIS) Process Overview</b>
<b>AGENDA ITEM TYPE:</b>	Discussion
<b>RECOMMENDATION:</b>	Informational report for discussion
<b>BACKGROUND:</b>	<p>The Utah Department of Transportation (UDOT) is currently working on the Environmental Impact Statement (EIS) for transportation solutions to address congestion issues in Little Cottonwood Canyon (LCC). In 2017, the Utah State Legislature approved SB 277 which designated \$100M for UDOT to use on transportation improvements that have a significant economic development impact associated with recreation and tourism within the state. Four priority recreational hot spots were identified including Moab, Bear Lake, LCC, and Zion. The LCC received \$66M for transportation improvements. The LCC EIS began in March 2018. UTA is listed as a cooperating agency in the EIS process and has been collaborating with the project team to ensure that public transit alternatives are presented and evaluated accurately in the EIS.</p>
<b>DISCUSSION:</b>	Josh Van Jura, project manager for the LCC EIS at UDOT, will present an overview of the current process, the alternatives being considered, and the next steps.
<b>ALTERNATIVES:</b>	This item is for discussion purposes only.
<b>FISCAL IMPACT:</b>	None
<b>ATTACHMENTS:</b>	None





## MEMORANDUM TO THE BOARD

**TO:** Utah Transit Authority Board of Trustees  
**THROUGH:** Carolyn Gonot, Executive Director  
**FROM:** Bill Greene, Chief Financial Officer  
**PRESENTER(S):** Monica Morton, Fares Director  
Andrew Gray, Civil Rights Compliance Officer  
Megan Waters, Community Engagement Manager

**BOARD MEETING DATE:** October 7, 2020

<b>SUBJECT:</b>	<b>Draft UTA Fare Policy and Rates, Title VI Fare Equity Analysis, and Public Involvement Report</b>
<b>AGENDA ITEM TYPE:</b>	<b>Discussion</b>
<b>RECOMMENDATION:</b>	Informational report for discussion
<b>BACKGROUND:</b>	<p>On February 12, 2020, UTA staff presented and obtained feedback from the Board of Trustees on the draft UTA Fare Policy. On March 25, 2020 UTA staff presented a fare pricing structure incorporated into the draft fare policy. Staff also reviewed a public outreach plan and related timeline expected to take place in April. As a result of COVID-19 the original timeline for public outreach was delayed until July. Public outreach is complete, and we are proceeding with the next steps for Board review and approval of the fare policy and establishment of new fare pricing.</p>
<b>DISCUSSION:</b>	UTA staff will present a brief overview of the draft UTA Fare Policy, proposed fare rates, and discuss the impact on fares of the Title VI analysis and public outreach.
<b>ALTERNATIVES:</b>	Informational report for discussion
<b>FISCAL IMPACT:</b>	<p>The estimated fiscal impact is calculated for the following fare changes based on the proposed fare rate schedule attached to this memo:</p> <ul style="list-style-type: none"><li>• \$1,147 Increase – Create a single fare for premium bus services</li><li>• \$445,625 Increase – Change the discount structures</li><li>• \$179,100 Loss – Apply a single base fare multiplier</li></ul> <p>The elimination of certain fare products such as tokens would result in a decrease in fare revenue for the short term; however, the transition to existing products and the implementation of various programs such as the pilot being developed with human service organizations would likely result in no loss or minimal loss over time.</p>

**ATTACHMENTS:**

- 1) DRAFT - UTA Fare Rates, effective December 1, 2020
- 2) Title VI Fare Equity Analysis (including Public Involvement Report) is attached to this Board meeting's agenda item 7.a. R2020-10-01 Resolution Approving Title VI 2020 Fare Equity Analysis

# Utah Transit Authority Fare Rates

Effective December 1, 2020

## 1) Base Fare and FrontRunner

### Local Bus, TRAX, Streetcar

	Adult	Reduced Fare
One-way	\$2.50	\$1.25
Day	\$5.00	None
Monthly	\$85.00	\$42.50

### Express Bus, Ski

	Adult	Reduced Fare
One-way	\$5.00	\$2.50
Monthly	\$170.00	\$85.00

### FrontRunner

	Adult	Reduced Fare
One-way	\$2.50	\$1.25
<i>Additional Stops</i>	\$0.60	\$0.30
Roundtrip	\$5.00	\$2.50
<i>Additional Stops</i>	\$1.20	\$.60

## 2) Special pricing

	Adult
Route Deviation	\$1.25
Group Pass	\$15.00
Horizon Pass	\$42.50
Paratransit	\$4.00
Paratransit 10-Punch	\$40.00
Ride Van Plus	\$50.00 Monthly
FAREPAY Discount	20%

## 3) Free Fare

The following special groups may ride free of charge under these parameters:

- Free Fare Zone – Customers boarding/alighting in the free fare zone
- Children – 5 years and younger when accompanied by a fare paying adult
- Employees – Agency employees, retirees, and eligible dependents
- Personal Care Attendant – Must accompany a pre-qualified rider with a disability
- Paratransit Eligible – Individuals certified as ADA paratransit eligible
- Elementary Students – Must have a training safety course and travel with a school group
- Trainer/Trainees – Trainer with accompanying trainees learning to use the system
- Sworn Peace Officers – Either in or out of uniform and certified with proof of status

#### **4) Reduced Fare**

A 50% reduced fare discount will be offered based on the following parameters:

- Seniors: 65 years or older, must show reduced fare card or proof of eligibility and identity when riding
- Disabled: pre-qualified by UTA, must show reduced fare card
- Medicare: valid Medicare card, must show reduced fare card or proof of eligibility and identity when riding
- Youth: between the ages of 6 and 18 years old, must show reduced fare card or proof of eligibility and identity when riding

DRAFT



## MEMORANDUM TO THE BOARD

**TO:** Utah Transit Authority Board of Trustees  
**THROUGH:** Carolyn Gonot, Executive Director  
**FROM:** Kenya Fail, Manager of Civil Rights  
**PRESENTER(S):** Andrew Gray, Civil Rights Compliance Officer

**BOARD MEETING DATE:** October 7, 2020

<b>SUBJECT:</b>	<b>R2020-10-01 – Resolution Approving the Title VI 2020 Fare Equity Analysis</b>
<b>AGENDA ITEM TYPE:</b>	<b>Resolution</b>
<b>RECOMMENDATION:</b>	Approve R2020-10-01 Resolution Approving the Title VI 2020 Fare Equity Analysis
<b>BACKGROUND:</b>	<p>UTA is proposing a series of changes to fares. These include changes to the base rates of some products, increases and decreases to discounts, creating a single fare for premium bus service, elimination of some fare media and products, and decrease in TVM paper pass offerings. These changes will ultimately decrease the number of products UTA offers and make a more clear structure for which to determine future fare changes. The analysis was performed in accordance with the Federal Transit Administration’s (FTA) Circular 4702.1B, which outlines the Title VI requirements and guidelines for recipients of FTA funds. Service and fare equity analyses are conducted to examine whether proposed changes to service and/or fares do not negatively impact minority or low-income populations in a disproportionate way. The circular also requires any equity analyses be approved by the recipient’s governing entity. UTA conducted a public hearing to gather comment and feedback on the changes. The report of the hearing process and its conclusions are included in the analysis as Appendix A and was a consideration when conducting the analysis.</p>
<b>DISCUSSION:</b>	<p>A review of ridership data from the 2019 onboard survey showed that there were no findings on a system-wide level, meaning that a cumulative examination of the changes did not find any inequities in the proposal. When individual changes were reviewed, however, there were three proposals that yielded the potential for a Title VI violation. One is immediately resolved through another proposal and the other two were determined to be justified and are proposed to proceed without modification.</p>
<b>ATTACHMENTS:</b>	R2020-10-01 Resolution Approving Title VI 2020 Fare Equity Analysis

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE UTAH TRANSIT  
AUTHORITY APPROVING THE TITLE VI 2020 FARE EQUITY ANALYSIS**

R2020-10-01

October 7, 2020

WHEREAS, the Utah Transit Authority (the "Authority") is a large 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; and

WHEREAS, the Board of Trustees of the Authority (the "Board"), in keeping with the Federal Transit Administration's requirements for public transit agencies and the Civil Rights Act of 1964 has considered and reviewed the Fare Equity Analysis ("Title VI Equity Analysis") prepared by Authority staff; and

WHEREAS, the Board has desires to approve the Title VI Equity Analysis.

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

1. That the Title VI Equity Analysis prepared by Authority staff, a copy of which is attached hereto as Exhibit A, is hereby approved by the Authority.
2. That the Board hereby ratifies any and all actions taken by the Authority's Executive Director, staff, and counsel in furtherance of and effectuating the intent of this Resolution.
3. That a copy of this Resolution shall be submitted to the Federal Transit Administration.
4. That the corporate seal be attached hereto.

Approved and adopted this 7th day of October 2020.

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Carlton Christensen,  
Chair Board of Trustees

ATTEST:

\_\_\_\_\_  
Secretary of the Authority

(Corporate Seal)

Approved As To Form:

DocuSigned by:  
*David Wilkins*  
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\_\_\_\_\_  
Legal Counsel

Exhibit A  
Title VI 2020 Fare Equity Analysis





# Title VI Fare Equity Analysis

Implementation Date: December 1, 2020

Utah Transit Authority

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## Introduction

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. The Utah Transit Authority is committed to the Federal Transit Administration's (FTA) Title VI objectives set forth in Circular 4702.1B. UTA works to ensure that all services are rendered equitably and resources are distributed without regard to race, color, or national origin.

The following analysis is a review of proposed changes to UTA's fare system. This is a part of an overarching goal to simplify fares at UTA. The proposed changes would be implemented in December 1, 2020. These changes are being proposed to provide a more clear and cohesive fare system. Though the proposed changes are facially neutral, this analysis, in accordance with FTA guidelines, will consider whether the changes might have a disproportionately negative impact on minority and/or low-income populations within UTA's service area. UTA will take all prescribed and prudent steps to ensure services are equitable for the communities served as well as compliant with federal guidelines and requirements.

## Summary of Proposal

UTA is proposing a series of changes to fares. These include changes to the base rates of some products, increases and decreases to discounts, creating a single fare for premium bus service, elimination of some fare media and products, and decrease in TVM paper pass offerings. These changes will ultimately decrease the number of products UTA offers and make a more clear structure for which to determine future fare changes.

UTA policy states that any change to fares constitutes a major change which requires an equity analysis be conducted.

## UTA Policy and Definitions

UTA has developed corporate policy 1.1.28 Title VI Compliance Policy to define and evaluate the impacts of proposed major service changes on minority and low-income populations in conjunction with a public outreach process. In developing this policy, UTA solicited feedback through newspapers within the service area, published on UTA's website (rideuta.com), and Utah's government website in the public notices section (Utah.gov) which provides translation options. In conjunction with the Salt Lake County Office of Diversity Affairs, which maintains an email list of local entities and individuals with interest in diversity issues, UTA sent an email notification soliciting feedback in the development of this policy. Additional targeted outreach was done, which included mailing a letter and the policy or sending emails to community organizations that work with minority or low-income populations.

The following references to policy are from subsections of corporate policy 1.1.28 and were created to ensure that all equity analyses are performed using the same parameters and are in line with FTA Circular 4702.1B.

### *Definitions*

- A. *"Disparate Impact"* refers to a facially neutral policy or practice that disproportionately affects members of a group identified by race, color, or national origin, where the recipient's policy or practice lacks a substantial legitimate justification and where there exists one or more alternatives that would serve the same legitimate objectives but with less disproportionate effect on the basis of race, color, or national origin.
- B. *"Disproportionate Burden"* refers to a neutral policy or practice that disproportionately affects the low-income population more than non-low-income populations.
- C. *"Low-income Population"* refers to any readily identifiable group of low-income persons who live in geographic proximity, and, if circumstances warrant, geographically dispersed/ transient persons (such as migrant workers or Native Americans) who will be similarly affected by a proposed FTA program, policy or activity.
- D. *"Minority Person"* include the following:
  - 1. American Indian or Alaska Native, which refers to people having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
  - 2. Asian, which refers to people having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent, including, for example,

Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

3. Black or African American, which refers to people having origins in any of the Black racial groups of Africa.
  4. Hispanic or Latino, which includes persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
  5. Native Hawaiian or Other Pacific Islander, which refers to people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- E. "Minority Population" means any readily identifiable group of minority persons who live in geographic proximity.
- F. "National Origin" means the particular nation in which a person was born, or where the person's parents or ancestors were born.
- G. "System Average" The system average is the averages of minorities and low-income persons within the total weighted number of people surveyed in UTA's onboard survey. The present ridership system averages are expressed below in tabular format using the 2018-2019 ridership survey conducted by UTA.

<i>Low-Income Ridership System Average:</i>	
Total Surveyed (weighted):	124,048
Low-Income Population:	50,035
Percent Low-income:	40.3%

<i>Minority Ridership System Average:</i>	
Total Surveyed (weighted):	145,069
Minority Population:	39,384
Percent Minority:	27.1%

### *Major Service Change*

UTA will consider the following types of changes to be "major changes", which require public input and a Title VI equity analysis in compliance with FTA's Circular 4702.1B

- a) The Addition of Service;
- b) A proposed service level reduction in miles, hours, or trips of thirty three percent (33%) or more of any route;
- c) The elimination of all service during a time period (peak, midday, evening, Saturday, or Sunday);
- d) A proposed twenty-five (25%) or greater change in route alignment;
- e) A proposed fare change.

### *Evaluation and Analysis of Service and Fare Changes*

1. UTA will analyze proposed major changes to service and any proposed fare changes in accordance with FTA's Circular C 4702.1B as amended.
2. UTA will evaluate the impacts of all major service changes cumulatively when there is more than one route being affected for a service change period

3. UTA will primarily utilize American Community Survey (ACS) Data, block group data and/ or ridership data to evaluate and analyze any proposed major service and fare changes. This data will be analyzed with Geographic Information System (GIS) software.
4. UTA will rely on population data and use the smallest geographic area that reasonably has access to the stop or station effected by the proposed major service change. This will be translated into a one-quarter mile radius to a bus stop, one-half mile to a light rail station and three miles to a commuter rail station.

### *Disparate Impact and Disproportionate Burden*

1. UTA will measure the burdens of service and fare changes on minority riders to determine when minority riders are bearing a disparate impact from the change between the existing service or fare and the proposed service or fare.
2. UTA will measure the burdens of service and fare changes on low-income riders to determine when low-income riders are bearing a disproportionate burden of the change between the existing service or fare and the proposed service or fare.
3. A threshold of 5% will be used to determine disparate impact on minority populations and disproportionate burden on low-income populations. This 5% is based on the margin of error from the US Census data that UTA uses to determine the populations in the service area. This means that if the burden of the service or fare change on minority or low-income populations is more than 5% worse than it is for the non-protected populations, then the change will be considered either a disparate impact or a disproportionate burden.

### *Finding a Disparate Impact*

1. At the conclusion of UTA's Analysis, if UTA finds a disparate impact on the basis of race, color, or national origin, UTA shall seek to modify the proposed changes in a way that will mitigate the adverse effects that are disproportionately borne by minorities. Modifications made to the proposed changes must be reanalyzed in order to determine whether the modifications actually removed the potential disparate impacts.
2. If UTA chooses not to alter the proposed services changes despite the potential disparate impact on minority populations, or if UTA finds, even after the revisions, that minority riders will continue to bear a disproportionate share of the proposed service or fare change, UTA may implement the change only if:
  - a. UTA has substantial legitimate justification for the proposed change; and
  - b. UTA can show that there are no alternatives that would have a less disparate impact on the minority riders but would still accomplish the transit provider's legitimate program goals. In order to show this, UTA must consider and

analyze alternatives to determine whether those alternatives would have less of a disparate impact on the basis of race, color, or national origin, and then implement the least discriminatory alternative

### *Finding a Disproportionate Burden*

If at the conclusion of the analysis, UTA finds that low-income populations will bear a disproportionate burden of the proposed major service change, UTA will take steps to avoid, minimize, or mitigate impacts where practicable. UTA will also describe alternatives available to low-income passengers affected by the service changes.

### *Datasets Used in Analysis*

FTA Circular 4702.1B states that an increase or decrease of fares by media type requires that the “transit provider shall analyze any available information generated from ridership surveys indicating whether minority and/or low-income riders are disproportionately more likely to use the... payment media that would be subject the fare change.” In light of this requirement, UTA has reviewed the 2018-2019 on-board survey data collected and has determined that both sample size and question structure did not yield reliable data that can be directly applied to the subset of credit card users on TVMs. Instead, UTA is using the demographics of the route geographically and the ridership data as an idea of the demographics.

## Proposed Change

### *Goals of Proposal*

The Utah Transit Authority (UTA) is proposing several changes to the fare policy and structure. UTA has been reviewing the current fare system for several years and has determined that several items were making the fare structure difficult to understand. The goals of the current effort to revise fares are:

- Simplification and streamlining of the overall public fare structure.
- Application of consistent base fare multipliers to the base fare to simplify how the pricing of other public fares and passes are determined.
- Streamline the public fare pricing structure by creating a single fare for all premium services.
- Change current discount structures to align with other discount levels.
- Eliminate some fare products for simplification.

### *Summary of Changes*

As UTA is seeking to accomplish its goals, the following list of changes have been proposed and broken up into categories by the type of change being proposed.

- Create a single fare for premium bus services, which would;
  - Decrease: Express routes from \$5.50 to \$5.00
  - Increase: *Ski bus including Park City* from \$4.50 to \$5.00
- Apply a single base fare multiplier to passes, which would;
  - Increase: Regular monthly pass (Bus and TRAX) from \$83.75 to \$85.00 (34x \$2.50)
  - Decrease: Premium monthly pass (Bus, TRAX, FrontRunner) from \$198.00 to \$170.00 (34x \$5)
  - Replace: Round Trip with Day pass – Cost to decrease from \$6.25 to \$5.00 (2x \$2.50)
- Change current discount structures
  - Increase: Youth discount from 25% to 50%
  - Increase: Horizon card discount from 25% to 50%
  - Decrease FAREPAY bus discount from 40% to 20% to match other modes
- Simplify catalogue of fare products by *removing* the following products;
  - All token sales including the 10 pack and 50 pack of tokens
  - *Premium monthly upgrade pass*
  - *Park City 30 Day*
  - *Flex Route Punch Pass*
  - *Premium monthly pass sold on TVMs*
  - *Regular monthly pass sold on TVMs*



The tables below show how the changes being proposed by UTA were presented during the public input period and provide additional information on the purpose and alternatives available. Included in Appendix A is informational flyers made available to the public during the public hearing process that also explains the proposal.

### *Fare Changes*

Current Fare Type	New Fare Type	Proposed Fare Change	Current Cost	New Cost	Why?
Express Bus Route	Premium Bus	Decrease in cost	\$5.50	\$5.00	2 X Base Fare (\$2.50)
Ski Bus & Park City Express	Premium Bus	Increase in cost	\$4.50	\$5.00	2 X Base Fare (\$2.50)
Regular Monthly Pass (Bus & TRAX)	Same: Regular Monthly Pass	Increase in cost	\$83.75	\$85.00	34 X Base Fare (\$2.50)
Premium Monthly Pass (Bus, TRAX, & FrontRunner)	Same: Premium Monthly Pass	Decrease in cost	\$198	\$170	34 X Premium Fare (\$5.00)
Round Trip	Day Pass	Replace, Decrease in cost	\$6.25	\$5.00	2 X Base Fare (\$2.50)

### *Proposed Changes to Discounts:*

Pass Type	Current Discount	New Discount	Proposed Fare Change	Why?
Youth	25% on monthly passes = \$62.75	50% off Example: Regular bus fare = \$1.25	Decrease cost, more savings	Align with senior/reduced discounts
Horizon Cardholder Pass	25% on monthly passes = \$62.75	50% off Example: Regular monthly pass = \$42.50	Decrease cost, more savings	Align with senior/reduced discounts
FAREPAY Card	40% off regular Bus fare = \$1.50 one-way	20% off regular Bus fare = \$2.00 one-way	Increase in cost	Align with discount on other modes

*Proposed Fare Product Eliminations:*

<b>Eliminated Fare Type</b>	<b>Replacement Option(s)</b>
<b>Premium monthly upgrade pass</b>	Monthly Premium Pass
<b>Tokens, including 10- and 50-packs</b> Token sales discontinued 11/1/2020; tokens will be accepted until August Change Day 2021.	Monthly Pass, FAREPAY Card, Cash, Mobile App, One-way ticket
<b>Park City 30-day pass</b>	FAREPAY Card, Cash
<b>Flex Route Deviations Punch Pass</b>	Cash
<b>Monthly passes sold on Ticket Vending Machines (TVMs)</b>	Monthly passes sold at Customer Service outlets, online, or through mobile app

Datasets Used in Analysis

In accordance with guidance from the Federal Transit Administration, UTA has utilized rider surveys conducted in 2019 to determine the demographics of the people impacted by the proposed changes. The demographics data is determined based on the responses to survey questions regarding fare media usage, race, income level, and household size. UTA compared the race, ethnicity, and income levels of the respondents stating they used the fare media being impacted by the changes to that of all respondents in the survey. This comparison is used to determine if the demographics of those impacted are disproportionately low-income and/or minority. Differences in the totals between minority and low-income is due to the survey taker's ability to decide whether or not to answer specific questions while answering others.

It is of note that in the analysis of these changes that there were several fare media types that were specific enough and/or their usage so low that no survey data was able to be collected in the survey. Either nobody in the surveys conducted used the fare media or the survey did not include the option due to how little the fare media is purchased/used. The items that are unable to be analyzed include:

- Premium Bus Increases
  - Ski Bus – Seasonal service to ski resorts (Averages \$46.7k in sales during 4 month operation)
  - Park City-Salt Lake City Connect – Transportation from Salt Lake to Park City (Averages \$6,300 per month in sales)

- Removal of Fare Products
  - Premium Monthly Upgrade Pass – Employers previously only paid for a regular monthly pass and this product was a monthly pass that allowed recipients of those passes to upgrade to premium service. Proposed removal due to low usage (averages \$556 per month).
  - Park City 30 Day – 30 day pass specific to the PC-SLC Connect. Proposed removal due to low usage (averages \$715 per month).
  - Flex Route Punch Pass – Punch pass for deviations on a flex route. Proposed removal due to low usage (averages \$797 per month).
  - Premium & Regular Monthly Pass from TVM – Monthly paper pass available through TVMs. Proposed removal due to low usage (averages \$5,950 and \$545 per month respectively).

Although there isn't data available for the proposed changes above, UTA has not identified them as a high risk for a Title VI finding since the removal of the proposed fare media products are utilized at such a relatively low rate. In reviewing the public comment, there was specific feedback regarding most of the proposed changes, but some did not receive any comments. No comments were received about the premium monthly upgrade pass and the Park City 30 day pass. The feedback received is listed below.

- Premium Bus Increases
  - Two comments received in opposition to proposal. Commenters wanted the service to be free or less expensive, and expressed concern over the congestion in the canyons.
  - One commenter was in support of the proposal because an even \$5 charge is more efficient to collect than \$4.50.
  - Two comments were received suggesting that Ski and Park City fares should be included in the Premium Monthly pass.
- Removal of Fare Media
  - Flex Route Punch Pass
    - Two commenters were opposed due to concerns over the convenience of cash use being the only option.
    - One commenter suggested allowing FAREPAY be used to pay for a deviation.
  - Premium & Regular Monthly Pass from TVM
    - Three commenters opposed the removal.
    - Two commenters had suggestions on alternative retail locations where passes could be located.

## Demographics of Impacted Populations

Considering the nature of the changes, UTA has divided the changes into two categories. There are positive changes that benefit those riders using that fare media and negative changes that either eliminate or increase fares for riders. These changes will be compared individually as well as cumulatively to ensure that both a change level and system-wide level review is conducted.

### *Positive Changes*

Below are tables showing a breakdown of the number of respondents that will be impacted by the positive changes and the percentage of low-income and minority populations

#### Low-income - Positive Changes

Proposed Change	Low-income	Total	Percent
Express fare decrease (\$5.50 to \$5.00)	107	629	17.0%
Premium monthly fare decrease (\$198.00 to \$170.00)	1	153	0.7%
Day pass fare decrease (\$6.25 to \$5.00)	4421	12504	35.4%
Youth discount increase (25% to 50%) - all modes	2159	4551	47.4%
Youth - Bus/LR Only	1437	3593	40.0%
Horizon discount increase (25% to 50%)	248	461	53.8%
<b>Cumulative Impact:</b>	<b>8373</b>	<b>21891</b>	<b>38.2%</b>

#### Minority - Positive Changes

Proposed Change	Minority	Total	Percent
Express fare decrease (\$5.50 to \$5.00)	124	680	18.2%
Premium monthly fare decrease (\$198.00 to \$170.00)	61	153	39.9%
Day pass fare decrease (\$6.25 to \$5.00)	4659	14476	32.2%
Youth discount increase (25% to 50%) - all modes	3165	11082	28.6%
Youth - Bus/LR Only	3038	6862	44.3%
Horizon discount increase (25% to 50%)	166	591	28.1%
<b>Cumulative Impact:</b>	<b>11213</b>	<b>33844</b>	<b>33.1%</b>

## Negative Changes

Below are tables showing a breakdown of the number of respondents that will be impacted by the negative changes and the percentage of low-income and minority populations.

### Low-income - Negative Changes

Proposed Change	Low-income	Total	Percent
Regular monthly fare increase (\$83.75 to \$85.00)	386	1999	19.3%
FAREPAY bus discount decrease (40% to 20%)	4599	10547	43.6%
Remove: Round Trip	4421	12504	35.4%
Remove: All Token sales	805	1129	71.3%
<b>Cumulative Impact:</b>	<b>10211</b>	<b>26179</b>	<b>39.0%</b>

### Minority - Negative Changes

Proposed Change	Minority	Total	Percent
Regular monthly fare increase (\$83.75 to \$85.00)	865	2192	39.5%
FAREPAY bus discount decrease (40% to 20%)	3009	12467	24.1%
Remove: Round Trip	4659	14476	32.2%
Remove: All Token sales	541	1299	41.6%
<b>Cumulative Impact:</b>	<b>9074</b>	<b>30434</b>	<b>30%</b>

## Analysis

This section will review the potential impacts of the changes on a change-specific and system-wide level. The demographics of those impacted from the change are compared to the average of all of the surveyed riders in the 2019 onboard survey, also referred to as the system average. The system average is shown in the table below. Any changes that *negatively* impact the populace at 5% greater than the system average will require further evaluation as it may potentially cause a disproportionate burden on low-income populations and/or a disparate impact on minorities. Any item in the subsequent tables of this section that exceeds the 5% threshold will be in bold and any item has the potential of causing further analysis will be in red. Bold items not in red may indicate a disproportionate *benefit* to minority and/or low-income riders.

Low-Income Ridership System Average:	
Total Surveyed:	124,048
Low-Income Population:	50,035
Percent Low-income:	40.3%

Minority Ridership System Average:	
Total Surveyed:	145,069
Minority Population:	39,384
Percent Minority:	27.1%

## Positive Changes

### Low-income - Positive Changes

Proposed Change	Low-income Percentage	Difference*
Express fare decrease (\$5.50 to \$5.00)	17.0%	<b>-23.3%</b>
Premium monthly fare decrease (\$198.00 to \$170.00)	0.7%	<b>-39.6%</b>
Day pass fare decrease (\$6.25 to \$5.00)	35.4%	-4.9%
Youth discount increase (25% to 50%) - all modes	47.4%	<b>7.1%</b>
Youth - Bus/LR Only	40.0%	-0.3%
Horizon discount increase (25% to 50%)	53.8%	<b>13.5%</b>

\*Difference is calculated from system average

### Minority - Positive Changes

Proposed Change	Minority Percentage	Difference*
Express fare decrease (\$5.50 to \$5.00)	18.2%	<b>-8.9%</b>
Premium monthly fare decrease (\$198.00 to \$170.00)	39.9%	<b>12.8%</b>
Day pass fare decrease (\$6.25 to \$5.00)	32.2%	<b>5.1%</b>
Youth discount increase (25% to 50%) - all modes	28.6%	1.5%
Youth - Bus/LR Only	44.3%	<b>17.2%</b>
Horizon discount increase (25% to 50%)	28.1%	1.0%

\*Difference is calculated from system average

As shown in the previous tables, there are many bold fields that indicate that the changes are in excess of the 5% threshold. The items in red indicate that the changes will disproportionately *benefit* either non-minority or not low-income riders. The numbers that are bold indicate that the changes will disproportionately benefit minority or low-income riders. While this does not directly trigger a finding since it does not *negatively* impact protected populations, it is an important factor to account for while making decisions that also negatively impact ridership.

*Negative Changes*Low-income - Negative Changes

Proposed Change	Low-income Percentage	Difference*
Regular monthly fare increase (\$83.75 to \$85.00)	19.3%	<b>-21.0%</b>
FAREPAY bus discount decrease (40% to 20%)	43.6%	3.3%
Remove: Round Trip	35.4%	-4.9%
Remove: All Token sales	71.3%	<b>31.0%</b>

**\*Difference is calculated from system average**

Minority - Negative Changes

Proposed Change	Minority Percentage	Difference*
Regular monthly fare increase (\$83.75 to \$85.00)	39.5%	<b>12.4%</b>
FAREPAY bus discount decrease (40% to 20%)	24.1%	-3.0%
Remove: Round Trip	32.2%	<b>5.1%</b>
Remove: All Token sales	41.6%	<b>14.5%</b>

**\*Difference is calculated from system average**

Unlike the positive changes, negative changes that disproportionately impact minority and low-income populations do have the direct possibility of negatively impacting those populations since they are being directly impacted by the proposal. All items in red surpass the 5% threshold and may indicate a disparate impact or disproportionate burden.

## Findings

### System-Wide Changes

#### System-wide Changes

Impacted Population	Low-income Percentage	Difference*
Low-income Positive	38.2%	-2.1%
Minority Positive	33.1%	<b>6.0%</b>
Low-income Negative	39.0%	-1.3%
Minority Negative	30.0%	2.9%

\*Difference is calculated from system average

Based on the data collected on a system-wide level, the only figures from the cumulative impact on both positive and negative change that exceeded the 5% threshold is on minority populations impacted by positive changes. The total impacted minority population was 6.0% *greater* than the total ridership's demographics indicating that minority populations were disproportionately benefited by the change. Since these are positive changes that benefit minority populations, there were no findings on a system-wide level.

### Positive Changes

There were four positive changes that exceeded 5% for low-income and four that exceeded 5% for minority populations. Five of those changes were disproportionately benefiting those populations. The remaining three proposals did not negatively impact ridership and do not mean that they directly trigger a Title VI finding. Since none of the changes are funded by the removal of another change that creates negative impacts, UTA does not find a change-level finding. UTA is, however, cognizant of who is benefiting from the specific changes and is reviewing future programs that will benefit Title VI populations.

### Negative Changes

A disparate impact is determined by showing a 5% or greater negative impact on either minority or low-income populations than the system average. Additionally, changes are included if the proposed changes appear to disproportionately benefit non-minority and/or moderate to high income people. Of the changes proposed, the following are of note because they exceed the 5% threshold. The numbers expressed are the demographics of those surveyed as they relate to the survey's overall demographics.

- Regular Monthly Pass Increase – 12.4% more minority population
- Removal of Round Trip Pass – 5.1% more minority
- Removal of all Token Products – 31% more low-income and 14.5% more minority



### *Regular Monthly Pass Increase*

It is proposed to create a single base multiplier for all monthly passes. This means that the regular base fare is multiplied by a single number to determine how much a pass would be. This would simplify the impact that any future changes to a base fare would have on all pass programs. UTA has always used multipliers for regular and premium passes. However, the rationale for how to determine the multiplier used in the pricing of the pass has not been documented and it appears that the selection of multipliers may have been set without clear justification. The Premium pass is currently 36x the base fare of \$5.50 and the Regular pass is 33.5x the base fare of \$2.50. The proposal would decrease the Premium base fare to \$5 to conform with other premium services and decrease the multiplier to 34x while increasing the Regular multiplier to 34x base fare making the Premium pass \$28 less and the Regular pass \$1.25 more.

UTA intends to perform a formal evaluation every two years of any fare adjustments including the base rate, which will impact all passes, as part of the fare policy. It will take into consideration the onboard survey's question of how many days per week each pass user takes transit. The number of days a rider uses transit will inform UTA on the number of trips per month each pass user takes. Once an average number of monthly trips is determined, the multiplier will be determined by applying a discount of approximately 20% to the average transit user. This discount mirrors the current and proposed FAREPAY discount. UTA feels that it is important to have a consistent discount structure throughout fare media and to have a formula that works to ensure equitable distribution of those discounts.

In reviewing the proposed formula, UTA found that the average monthly usage on both Regular and Premium Monthly Passes were 43 trips per month. When 43 is reduced by 20%, the resulting number is 34.4. UTA rounded this figure down to 34 and multiplied the base rate by this figure to get the proposed pass amounts. As stated previously, the multiplier may change based on subsequent increases or decreases in average rider usage, but having a practical and consistent method to determining pass rates is a part of UTA's overarching goal to simplify fare structure and policy.

In consideration of the proposal to increase the Regular Pass by \$1.25's potential disparate impact, UTA analyzed potential alternatives that might mitigate the impact. UTA considered 1) keeping the discount at 33.5, 2) decrease the multiplier to 33, 32, or even 31 to eliminate the potential for a disparate impact, or 3) proceed with the proposal as is. Although leaving the multiplier at 33.5 would be a revenue neutral option, it would impact future pass changes when looking to formulate the discount structure. If UTA were to

decrease the multiplier there would be a -\$131,819 annual projected loss for every whole number decreased from the multiplier.

UTA is also looking to introduce additional measures to alleviate the financial burden of low-income riders. Based on ridership data, minorities comprise 31.3% of all low-income riders while they only account for 26.4% of riders that are not low-income which means that low-income programs should benefit minorities at a greater rate. In light of this, UTA is seeking to mitigate any negative impacts by working to pilot a program that would create up to a 50% discount for low-income individuals and families, looking to create fare-capping on FAREPAY, which will save many people money if they use an electronic fare media instead of a paper monthly pass, and have a pilot in place that partners with human service agencies to provide free monthly passes to people that qualify. Additionally, the FAREPAY card is a pay-as-you-go option for anyone who may not use transit 34 times in the month and it has the same discount applied as the monthly pass which creates a viable option for any individual that does not have immediate funds to pay for a paper pass and/or does not use transit enough to benefit from a monthly pass.

Due to the overarching goals of UTA to create an easily replicated formula for pass cost determination and the simplification it will offer in the future, financial considerations associated with any reduction in the multiplier, and additional fare payment options that can be used as a mitigation for the increase either in place or coming on line, UTA has decided to proceed with the change as proposed despite the potential disparate impact.

### *Removal of Round Trip Pass*

Although this removal of a round trip pass does indicate that there may be a disparate impact, there is a mitigation of the introduction of a Day Pass, which has a potential to be used more during a day and is at a decreased cost. Due to the positive replacement of this fare product, UTA does not see that this would rise to the level of a finding.

### *Removal of all Token Products*

An important aspect of how UTA has used tokens as a fare media is related to a partnership program UTA has developed with homeless service providers. UTA has sold discounted tokens and monthly passes to non-profit entities that would then pass through those tokens and monthly passes to people experiencing homelessness. The 2019 onboard survey was conducted while this program was still in place. Since this survey was completed, UTA has switched this program from tokens to an electronic card fare media with a greater discount. Since the token program served a large number of low-income people and people experiencing homelessness disproportionately **impacts minority populations**, UTA has sorted the data to capture those persons using tokens that did not receive them from a Human

Services entity. This decreased the percentage of low-income to 66.3% low-income and 27.9% minority, which is now 26% more than the system average for low-income and .8% more than the system average for minority. Since only those purchasing the tokens directly are impacted by this change, UTA finds that the disparate impact has been negated upon further investigation.

Even with a decrease of five percentage points, there is still the potential for a disproportionate burden for tokens. UTA has considered the alternative of keeping tokens, but has determined that it has a substantial business justification associated with the cost and procedural issues associated with continuing to offer tokens. Although UTA sells many tokens, the tokens are not consistently used. As such, UTA pays between \$9,600 and \$10,000 every 12-18 months to mint 100,000 coins. There are additional costs associated with processing tokens. Tokens are only usable on bus where there is a fare box to collect cash. Not only does this mean that a rider using TRAX would need to board a bus first to obtain a transfer before boarding the train, but it also means that UTA must sort tokens out of the cash received on the buses. Once sorted, UTA staff must collect and redistribute the tokens to all of the vendor locations in order to recirculate them. The administrative and financial costs associated with tokens is large enough that UTA has determined that proceeding with the change is justifiable considering the number and type of alternatives available. Alternatives include cash, day passes, monthly passes, and most beneficial would be a transition to FAREPAY. This fare medium would include a 20% discount which is better than the 10% discount offered on 10 packs of tokens.

A mitigating factor of this proposed change is that although token sales would stop in December 1, 2020, the tokens themselves will be accepted until August Change Day 2021. This should mitigate the impact on riders with tokens in-hand and allow them to get the value from their purchase. Due to these factors, UTA has determined to continue with the proposed change despite the potential disproportionate burden.

## Appendix A: Public Comment Report

### **UTA Proposed Fare Changes Public Involvement Report**

*Updated 09.04.2020*

#### **Introduction**

In July 2020, the Utah Transit Authority (UTA) proposed several changes to the fare policy and structure. Those proposed changes can be reviewed in Appendix 1 of this report. The agency held a 30-day public comment period from July 22 through August 21 with multiple opportunities for the public to engage in the input process, including a virtual public hearing on August 6. This report details public involvement and feedback on the proposed changes.

#### **Part 1: Public Engagement Efforts**

##### **Engagement Overview**

<b>Component</b>	<b>Proposed Timeline</b>	<b>Additional Detail</b>
<b>Public comment period</b>	July 22 – August 21	30-day period required. Public notice was published. Comment accepted via email, mail, online form, phone, and in-person at Customer Service locations.
<b>Public hearing (Virtual)</b>	August 6, 6pm	15 days after public comment period announced, this public hearing was held virtually over Zoom. The Fares Department presented information about proposed changes and answered questions. Registered participants were invited to provide public comment during the meeting. A recording was made available following the event.
<b>Customer Service Open House</b>	July 22 – August 21	Customer service offices across the service area (4 locations) supported ongoing informal “open house” in-person opportunities for members of the public to learn more and provide comment onsite.
<b>Virtual engagement</b>	July 22 – August 21	Available throughout the comment period online, included virtually accessible information and feedback opportunities through OpenUTA.

The public comment period was held for 30 days from July 22 through August 21. Multiple methods for sharing information on the proposed changes and submitting official comment on the proposed changes were made available to the public. Methods for public comment included email, mail, phone, OpenUTA online comment form, the virtual public hearing, and in-person at customer service locations in three counties. Information on proposed changes was shared widely via newspapers of general circulation in the service area, UTA’s website, and UTA’s social media platforms, including Instagram, Facebook, and Twitter. The virtual public hearing on August 6 was broadcasted over Zoom and livestreamed to UTA’s Facebook page. A recording of the virtual public hearing was made available for public viewing following the live event via UTA’s website, YouTube channel, and Facebook page.

In addition to these media platforms, UTA promoted the public comment period through partners. The Community Engagement Department shared complete information about the proposed changes and methods for submitting public

comment with internal departments at UTA who were asked to share with their teams and networks. The following table describes internal engagement and information-sharing.

UTA Department	External Share
PR & Marketing	FAREPAY users, GovDelivery Subscribers, Connected Newsletter (elected officials and local representatives), Salt Lake Tribune, Central Wasatch Commission, media release to press
Planning	Planning partners, MPOs
Travel Training	Catholic Community Services, International Rescue Committee, other partners
Business Development & Sales	Pass Partners, Low-Income Pilot Program Partners, Homeless-serving organizations
Civil Rights	DBE partners, other community organizations, CAT committee & disability community
Special Services, TRAX, FrontRunner, Mt. Ogden Business Unit, Salt Lake Business Unit, Timpanogos Business Unit	<i>Internal share</i>

The Community Engagement Department also shared information about the proposed changes and methods for submitting public comment directly with external partners, who were also asked to share with their networks.

External Partner	Intended Audience
UTA Citizens Advisory Committee (CAC)	General public, community members
Univision	Latinx and Spanish-speaking community
Art in Motion Partners	Youth, general community
Salt Lake Valley Coalition to End Homelessness	Homeless service providers, other community partners
Utah Nonprofits Association	Nonprofit community-based organizations
Division of Multicultural Affairs	Community partners, historically underserved communities
Department of Workforce Services	Horizon cardholders
Westview Media	Salt Lake City west side community <i>West View Media invited UTA to participate in a digital town hall broadcast via Facebook Live on August 11.</i>
Glendale Community Council	Glendale community residents/riders
Poplar Grove Community Council	Poplar Grove community residents/riders
Salt Lake City Corporation	SLC residents
Wasatch Front Regional Council	Transportation sector, general public
Utah Department of Health	Health partners, community health workers, historically underserved communities
Utahns Against Hunger	Historically underserved communities

## Public Hearing Notice

A detailed public hearing notice was distributed via newspapers of general circulation for publication on July 22, including the Daily Herald (Utah County), Tooele Transcript (Tooele County), Standard Examiner (Weber County), Deseret News, and the Salt Lake Tribune. The public notice was also shared via the Utah Public Notice Website. Proofs are included in Appendix 2.

## News Media

Information regarding proposed fare changes and engagement opportunities was shared widely with the news media. At least 10 sources covered the story. A record of news media coverage on the proposed fare changes is included in Appendix 3.

## Social Media Platforms

The following posts were shared on UTA's Facebook, Instagram, and Twitter platforms.



July 22: Boosted posts through August 24.

- 16,478 People Reached
- 2,198 Engagements
- 82 Comments
- 87 Reactions
- 56 Shares

“UTA is proposing several changes to the fare policy and structure. A 30-day public comment period is now open, from July 22 through August 21.

Let us know what you think! Read more about how to submit a comment at [www.rideuta.com/farechanges](http://www.rideuta.com/farechanges)”



**It's time for another update!**



**Give us your input on proposed fare changes at our public hearing**

August 3

- 2,504 People Reached
- 295 Engagements
- 9 comments
- 21 reactions
- 8 shares

“Proposed Fare Changes Alert! ✨ A public hearing will be held on Thursday, August 6 at 6 p.m. This meeting will be held on Zoom at the link below and live-streamed on Facebook and YouTube. The public hearing meeting will provide an overview of the proposed fare changes, take questions, and accept public comment.

Watch live here:

<http://ow.ly/eeUh50AJvR3>

Register to provide a public comment during the hearing here:

<https://us02web.zoom.us/j/81234567890/register/WN-hIc1GeVQFeLcLmIEyyE5Q>

For more information on proposed fare changes, visit [rideuta.com/farechanges](http://rideuta.com/farechanges)”

## Virtual Public Hearing

The virtual public hearing was held on Thursday, August 6 at 6pm. The event was held over Zoom webinars and was broadcast on the RideUTA Facebook Live feed. Three individuals from the public registered and attended the live event to make a comment on the broadcast. Interwest Interpreting was on the line to provide ASL interpretation. A recording of the virtual public hearing was also available for viewing following the events on the UTA Facebook and YouTube channels.

### Facebook:

- 2,552 reached
- 978 views
- 328 engagements
- 14 reactions
- 28 comments
- 4 shares
- Link to the event on Facebook:  
<https://www.facebook.com/RideUTA/videos/1162246330817529/>

### Youtube:

- 83 Views
- 3 Likes
- 0 Comments

- Link to the event on YouTube:  
<https://www.youtube.com/watch?v=nLEUh7MdfWo>

## Other Social Media: West View Media’s Digital Town Hall

West View Media invited UTA to participate in a digital town hall broadcast via Facebook Live on Tuesday, August 11 at 4pm. 71 people watched the broadcast live; 1,849 people have watched at least some portion of the broadcast since the event. The total reach on all of West View Media’s platform with this event was just over 6,800.

- Link to event:  
<https://www.facebook.com/watch/?v=1779252368879355&extid=70HeZmQ6Ph28CAFO>

## Website

Detailed information was shared via UTA’s website. A carousel on the main page directed the public to detailed information on the proposed changes at [rideuta.com/farechanges](http://rideuta.com/farechanges). The public hearing information was also included on the public hearing page of the UTA website. Supporting information in both English and Spanish was shared via the website to clearly communicate the proposed changes – these documents can be reviewed in Appendices 4 and 5 of this report. A total of 3,602 page views were logged from July 22 – August 21.

## Customer Service Outreach

To provide an in-person avenue for the public to engage with the information, particularly members of the community with lower access to technology, including internet, computers, and smartphones, the Community Engagement Department partnered with 4 UTA customer service locations – Mt. Ogden, Meadowbrook, Downtown Salt Lake – Lost & Found, and Timpanogos – to hold informal “open house” opportunities. Information shared onsite at customer service locations can be reviewed in Appendix 5 of this report. Members of the public were invited during business hours to review the information, ask available agents questions about the proposed changes, and submit their official public comment onsite. Seven official public comments were submitted through this method, but more individuals did engage with the information and chose to not leave a comment.

## Part 2: Public Comment Analysis

### Engagement by the Numbers

Mode	Comments (#)
Email	29
Mail	0
Customer Service – Phone	7 <i>Board received - 1</i>
Customer Service – Onsite	7
OpenUTA	74
Virtual Public Hearing	3
<b>Total Official</b>	<b>120</b>
<i>Unofficial</i>	
<i>Social Media</i>	55
<i>Other</i>	4



## Public Comment Overview

Theme	Against	Support	Other
General	24	27	
Regular Monthly	7		1
Premium	1	6	
Express Bus	1	3	
Day Pass	1	2	
FAREPAY	20	1	1
Tokens	7	3	3
PC-SLC	2		1
Horizon	1	1	
Discounts		4	2
Deviation Punch Pass	2		1
Ski Service	2	1	2
Outlets/POS	3		2
Other/Neutral/Suggestion	2		34
Policy/Fare Structure			10
HIVE			2
Fare enforcement			4
Fare media			4
<b>Totals</b>	<b>73</b>	<b>48</b>	<b>67</b>

The table above lists the themes of the comments as they relate to the proposed fare changes in the left-hand column. Each comment was coded for themes, as well as sentiment to understand if the comment was in support of or against the proposed changes. The numbers in each column represent the number of comments related to a theme and whether they were against or supportive of the proposed changes, or had an “other” category assigned. Many comments were multi-themed and some expressed varying sentiment depending on which change they were referencing. There were many comments that were categorized as “Other”, which includes comments that made neutral statements, asked a question, or provided suggestions and recommendations for changes outside of the scope of the current fare change proposal. Questions from the public were responded to when possible (contact information provided). When examining the comments in whole, more comments were opposed to the proposed changes than were supportive of the proposed changes (73 compared to 48). Dissatisfaction with the proposed fare changes were largely due to increasing fares on certain passes, however the proposed reductions in other fare types were appreciated by the public, as were genuine efforts to simplify the fare structure. Each theme is reviewed in more detail below and further analysis of the sentiment is provided to glean which proposed changes are favorable, which are less so, and why.

## Public Comment Detailed Review

Theme	Against	Support
<b>General</b> <i>24 Against,</i> <i>27 Support</i>	<b>Affordability</b> <ul style="list-style-type: none"> <li>Disproportionately affects lower income riders, working class riders</li> <li>Public transit is not a money-making business</li> </ul> <b>Ridership</b>	<b>Simplification &amp; clarification</b> <ul style="list-style-type: none"> <li>Easier to remember and calculate</li> </ul> <b>Frequent riders benefit</b> <ul style="list-style-type: none"> <li>Good deal for those who ride often</li> </ul>

	<ul style="list-style-type: none"> <li>• Lower costs to encourage ridership</li> <li>• Changes do not do enough to encourage ridership</li> <li>• Should be incentivizing ridership over driving cars</li> <li>• Some of the changes will encourage people to switch to cars</li> </ul> <p><b>Timing</b></p> <ul style="list-style-type: none"> <li>• Not the right time</li> <li>• Keep the same</li> </ul>	<p><b>Proposed decreases</b></p> <ul style="list-style-type: none"> <li>• Agreement with the proposed decreases in fare</li> </ul> <p><b>Fair</b></p>
<p><b>Regular Monthly</b> 7 Against, 0 Support</p>	<p><b>Timing</b></p> <ul style="list-style-type: none"> <li>• Bad timing</li> <li>• Economy is struggling right now</li> <li>• Wait for a change day</li> </ul> <p><b>Ridership</b></p> <ul style="list-style-type: none"> <li>• Disincentives ridership</li> <li>• Consistent riders take on more cost</li> </ul> <p><b>Detrimental Increase</b></p> <ul style="list-style-type: none"> <li>• Unhappy with price increase</li> <li>• Some people (including essential workers) live paycheck to paycheck - make more discounts available</li> <li>• Passing on fare increases to regular monthly riders while decreasing premium/express service</li> <li>• Will be economically wrong to put upon those at lower economic levels who must take buses</li> </ul> <p><b>Multiplier</b></p> <ul style="list-style-type: none"> <li>• Multiplier should be based on x25 for the work week</li> </ul>	
<p><b>Premium</b> 1 Against, 6 Support</p>	<p><b>Multiplier</b></p> <ul style="list-style-type: none"> <li>• Multiplier should be based on x25 for the work week</li> </ul>	<p><b>Fare Reduction</b></p> <ul style="list-style-type: none"> <li>• Price reduction is appreciated</li> <li>• Was priced too high previously</li> <li>• More affordable pass</li> </ul>
<p><b>Express Bus</b> 1 Against, 3 Support</p>	<p><b>Ridership</b></p> <ul style="list-style-type: none"> <li>• Prioritizing the wrong riders</li> <li>• Regular bus riders will be less inclined to ride</li> </ul>	<p><b>General Support</b></p> <ul style="list-style-type: none"> <li>• Approve of the changes</li> </ul>
<p><b>Day Pass</b> 1 Against, 2 Support</p>	<p><b>Cost</b></p> <ul style="list-style-type: none"> <li>• Still too expensive</li> </ul>	<p><b>Fare Reduction</b></p> <ul style="list-style-type: none"> <li>• Approve of the changes</li> </ul> <p><b>Ridership</b></p> <ul style="list-style-type: none"> <li>• Incentivizes ridership and disincentives driving</li> </ul>
<p><b>FAREPAY</b> 20 Against,</p>	<p><b>Timing</b></p> <ul style="list-style-type: none"> <li>• Current economy</li> </ul>	<p><b>General Support</b></p> <ul style="list-style-type: none"> <li>• Consistent</li> </ul>

<p><i>1 Support</i></p>	<ul style="list-style-type: none"> <li>• Bad for the community</li> </ul> <p><b>Regular Riders</b></p> <ul style="list-style-type: none"> <li>• Working people who take the bus a lot will be negatively impacted</li> <li>• Harmful to, extra burden for regular bus riders</li> <li>• Why should riding the bus and train cost the same?</li> <li>• Some riders do not have alternatives</li> </ul> <p><b>Ridership</b></p> <ul style="list-style-type: none"> <li>• Encourage ridership with lower fares right now</li> <li>• Ridership will be affected</li> <li>• People may drive more/buy a car</li> <li>• FAREPAY discounts build loyalty</li> </ul> <p><b>Detrimental Increase</b></p> <ul style="list-style-type: none"> <li>• Lower rates</li> <li>• Discounts are needed</li> <li>• Keep the same</li> <li>• Drastic price increase</li> <li>• Could impact riders' ability to pay for other essential needs</li> <li>• Could impact riders' ability to afford to ride</li> <li>• Short trips are unaffordable at this price</li> </ul>	
<p><b>Tokens</b> <i>7 Against,</i> <i>3 Support</i></p>	<p><b>Inconvenience</b></p> <ul style="list-style-type: none"> <li>• Do not discontinue/eliminate</li> <li>• Plan for replacing/phasing out</li> </ul> <p><b>Access</b></p> <ul style="list-style-type: none"> <li>• Provide access for more people (kids, dependents);</li> <li>• Good to have as an alternative to exact change/cash</li> <li>• Easy to donate</li> </ul> <p><b>Affordability</b></p> <ul style="list-style-type: none"> <li>• Service providers</li> <li>• Low-income riders use these</li> </ul>	<p><b>General Support</b> <b>New program</b></p> <ul style="list-style-type: none"> <li>• New low income pilot program is a better deal</li> </ul>
<p><b>PC-SLC</b> <i>2 Against,</i> <i>0 Support</i></p>	<p><b>Detrimental Increase</b></p> <ul style="list-style-type: none"> <li>• Not strictly ski service</li> <li>• Harmful to working class commuters</li> <li>• Negative impact to monthly budgets</li> <li>• Keep fares lower</li> </ul>	
<p><b>Horizon</b> <i>1 Against,</i> <i>1 Support</i></p>	<p><b>General Opposition</b></p> <ul style="list-style-type: none"> <li>• Disagreement with a consistent discount</li> </ul>	<p><b>General Support</b></p>
<p><b>Discounts</b> <i>0 Against,</i> <i>4 Support</i></p>		<p><b>General Support</b></p> <ul style="list-style-type: none"> <li>• Lowered student discount</li> <li>• Appreciate the 50% discount alignment</li> </ul>

<b>Deviation Punch Pass</b> <i>2 Against, 0 Support</i>	<b>Inconvenience</b> <ul style="list-style-type: none"> <li>• Don't carry cash</li> <li>• Creates difficulties</li> </ul>	
<b>Ski Service</b> <i>2 Against, 1 Support</i>	<b>Affordability &amp; Ridership</b> <ul style="list-style-type: none"> <li>• Encourage people to ride by decreasing cost</li> <li>• Help get cars out of the canyons</li> <li>• Needs to be cheaper</li> </ul>	<b>Efficiency</b> <ul style="list-style-type: none"> <li>• \$5 on ski will improve efficiency</li> </ul>
<b>Outlets/Point of Sales</b> <i>3 Against, 0 Support</i>	<b>Access</b> <ul style="list-style-type: none"> <li>• Monthly pass should be available at TVMs</li> </ul>	

## “Other” Comments

Many comments were categorized as “other” because they fell outside the current proposed fare changes. There were many valuable ideas expressed and could be considered as additional improvements to the UTA fare structure policy are made.

### Fare structure improvements

#### Existing Products

- Clarify HIVE pass changes
- Tokens: allow a phase-out period for tokens and redeem for other forms of fare
- Increase transfer time to 3 hours
- Use FAREPAY card to pay for transfers
- All hour group passes
- Include ski service on premium passes (i.e. ECO, ED)
- Review pass partner options (i.e. ECO, ED) to increase fairness - determine price based on service availability
- Express Bus: keep cost lower for paying in advance

#### Flexibility

- Build in more flexibility in buying passes not on a calendar month (30-day pass)
- Fare structure should allow for rolling 30-day passes, 3-day, 7-day (consider other transit agency fare structures)
- Implement distance-based fare
- Implement fare capping

#### Point of Sale/Outlets

- Additional, convenient locations to buy passes, including tap cards
- Extended and add after-work hours
- Availability at grocers (i.e. Smith's)
- Keep outlets available – some have limited access to internet/mobile

#### Cost & Discounts

- Implement \$1 fare
- Move toward a free/no cost transit system
- Explore additional discounts
- Allow low-income riders to access 50% discount
- Decrease FrontRunner fare
- Charge fair market value
- Do not lower fares

### **Fare media**

- Advocate for cashless, tap-on, debit/credit fare media
- Unified applications for using transit
- Eliminate high touch products (i.e. paper transfers, punch cards, cash)
- Make FAREPAY reloads available at TVMs

### **Timing/Current Events**

- Lower fares during pandemic
- Be sensitive to unusual times

### **Encouraging ridership**

- Make transit more affordable than driving
- Ridership will grow only when there is an incentive (savings)
- Air quality and congestion are at stake

### **Strategy**

- Link fares to (current) air quality
- Communicate changes and help people transition to new structure
- Have fares be in line with fuel trends
- Explore public private partnerships and downtown resident passes
- Focus on clean and safe operations
- Explore what other transit systems offer (i.e. Portland)
- Advance fare technology – more innovative, flexible structure
- Advance FAREPAY system
- Improve equity in fare structure
- Find more solutions to save transit
- Disclose paratransit fare

### **Fare Enforcement**

- Fare enforcement and fare payment is an issue that should be addressed before raising fares on paying passengers
- Increase police presence on transit

### **Outside scope**

- Service and frequency of the UTA system

- Improve service first, then revisit fare increases
- Prioritize infrastructure for transit
- Canyon service in the summer
- Transit is a burden and needs to stop growing

## Summary of Findings

Through the public engagement process, 120 official public comments were received. Despite a relatively low total number of comments, the feedback received is valuable. Outreach during COVID-19 presented challenges in reaching the public, and with lower ridership, it's not surprising engagement on these proposed changes was less than we may have liked.

When analyzed for sentiment, more comments were unresponsive of the proposed changes than were supportive. The most common categories that received comments included general comments, FAREPAY, tokens, regular monthly passes, and premium monthly passes. It is important to note that nearly 17% of the total comments (N=120) were unresponsive specifically of the increase to FAREPAY on bus. Many comments did recognize UTA's efforts to simplify the complicated fare structure. Efforts to decrease fares were appreciated, however areas where fares were increasing or products were being eliminated drew opposition. A large number of comments fell outside the scope of the current proposed fare changes, however provided valuable input and feedback on fares and UTA more broadly. This information has been included in the report for continued consideration.

There is a valid reason to reconsider some of the proposed fare increases, including economic depression throughout our region as a result of the pandemic, particularly impacting lower-income and working class public. These changes will affect riders who regularly use bus service for transportation often with no alternatives. Comments about both increases to FAREPAY and the regular monthly pass expressed that the timing of these proposed increases was poor.

With any further consideration of proposed fare changes, it is important to recognize the current climate, as well as a commitment to maintain access and affordability for those who need public transit services. Incentivizing ridership now and in the near future will be important for community sustainability and resilience.

All individual comments are included as part of the official Public Involvement Record and can be made available upon request.

## Appendix 1 - Proposed Changes

The goals of the proposed public fare changes at UTA include:

- Simplify and streamline the overall public fare structure.
- Apply consistent multipliers to the base fare to simplify how the pricing of other public fares and passes are determined.
- Streamline the public fare structure by creating a single fare for all premium bus services.
- Change current discount structures to align with other discount levels.
- Eliminate some fare products for simplification.

The proposed changes aim to simplify the fare structure by applying consistent multipliers to the base fare to set pricing for premium fares and passes.

- The Base Fare is the amount charged for a base adult one-way fare; it is currently \$2.50 and is not changing.
- Premium Bus Services: to now include Express Bus, Ski Bus, and the Salt Lake - Park City Express
  - Premium Bus Services to be consistently priced at two times the base fare = \$5.00 (or 2 X \$2.50)
- Monthly and Day Pass Fares:
  - Regular Monthly Fare (Bus & TRAX) = \$2.50 x 34 trips
  - Premium Monthly Fare (Bus, TRAX, & FrontRunner) = \$5.00 X 34 trips
  - Day Pass Fare = \$2.50 X 2

Current Fare Type	New Fare Type	Proposed Fare Change	Current Cost	New Cost	Why?
<b>Express Bus Route</b>	Premium Bus	Decrease in cost	\$5.50	\$5.00	2 X Base Fare (\$2.50)
<b>Ski Bus &amp; Park City Express</b>	Premium Bus	Increase in cost	\$4.50	\$5.00	2 X Base Fare (\$2.50)
<b>Regular Monthly Pass (Bus &amp; TRAX)</b>	Same: Regular Monthly Pass	Increase in cost	\$83.75	\$85.00	34 X Base Fare (\$2.50)
<b>Premium Monthly Pass (Bus, TRAX, &amp; FrontRunner)</b>	Same: Premium Monthly Pass	Decrease in cost	\$198	\$170	34 X Premium Fare (\$5.00)
<b>Round Trip</b>	Day Pass	Replace, Decrease in cost	\$6.25	\$5.00	2 X Base Fare (\$2.50)

Pass Type	Current Discount	New Discount	Proposed Fare Change	Why?
<b>Youth</b>	25% on monthly passes = \$62.75	50% off Example: Regular bus fare = \$1.25	Decrease cost, more savings	Align with senior/reduced discounts
<b>Horizon Cardholder Pass</b>	25% on monthly passes = \$62.75	50% off Example: Regular monthly pass = \$42.50	Decrease cost, more savings	Align with senior/reduced discounts
<b>FAREPAY Card</b>	40% off regular Bus fare = \$1.50 one-way	20% off regular Bus fare = \$2.00 one-way	Increase in cost	Align with discount on other modes

Eliminated Fare Type	Replacement Option(s)
<b>Premium monthly upgrade pass</b>	Monthly Premium Pass
<b>Tokens, including 10- and 50-packs</b> <i>Token sales discontinued 11/1/2020; tokens will be accepted until August Change Day 2021.</i>	Monthly Pass, FAREPAY Card, Cash, Mobile App, One-way ticket
<b>Park City 30-day pass</b>	FAREPAY Card, Cash
<b>Flex Route Deviations Punch Pass</b>	Cash
<b>Monthly passes sold on Ticket Vending Machines (TVMs)</b>	Monthly passes sold at Customer Service outlets, online, or through mobile app



## Appendix 2 – Public Notice Proofs

### NOTICE OF PUBLIC HEARING AND COMMENT PERIOD UTAH TRANSIT AUTHORITY

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#### Public Comments:

Relevant information about the proposed changes will be available at the Public Hearing and on the UTA Website at [www.rideuta.com/farechanges](http://www.rideuta.com/farechanges). The proposed fares changes will be available for public review and comment from July 22, 2020 – August 21, 2020. Comments must be received, postmarked or electronically submitted to UTA through one of the following methods by 5 p.m. on August 21, 2020 to be considered as part of the public comment record.

Email: [hearingofficer@rideuta.com](mailto:hearingofficer@rideuta.com)

Phone: 801-743-3882

Mailing: Utah Transit Authority, C/O Megan Waters, 669 W 200 S, Salt Lake City, UT 84101

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#### Proposals are as Follows:

1. Goals of fare changes at UTA:
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2. Key Terms
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    - v. Round Trip: \$5.00
  - b. Proposed Changes to Discounts
    - i. Youth: 50% off fare
    - ii. Horizon Cardholder: 50% off regular monthly pass
    - iii. FAREPAY Card: 20% off regular bus
  - c. Proposed Fare Product Elimination
    - i. Premium Monthly Upgrade Pass
    - ii. Tokens, including 10- and 50-packs
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Legal Notice 64495 Published in The Daily Herald July 22, 2020.



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|---|---|
| <p><b>Timpanogos</b><br/>1110 S. Geneva Rd<br/>Orem, UT 84058<br/>(801) 227-8923<br/>Hours: Monday-Friday, 8:30 a.m. to 5 p.m.</p>              | <p><b>Downtown Salt Lake City</b><br/>250 South 600 West<br/>Salt Lake City, UT 84101<br/>(801) 267-4664<br/>*Lost and Found Location<br/>Hours: Monday-Friday, 8:30 a.m. to 5 p.m.</p> |
| <p><b>Meadowbrook</b><br/>3600 South 700 West<br/>Salt Lake City, UT 84119<br/>(801) 262-5626<br/>Hours: Monday-Friday, 8:30 a.m. to 5 p.m.</p> | <p><b>Ogden Transit Center</b><br/>2393 Wall Avenue<br/>Ogden, UT 84401<br/>(801) 626-1207<br/>Hours: Monday-Friday, 8:30 a.m. to 5 p.m.</p>  |

To assure full participation at the hearing and during the public comment period, accommodations for effective communication such as a sign language interpreter, printed materials in alternative formats or a **language interpreter** for non-English speaking participants must be requested at least five (5) working days prior to the date of the scheduled event by contacting the UTA Hearing Officer at **801-244-3271**. Requests for **ADA accommodations** should be directed to UTAs ADA Compliance Officer at **801-262-5626** or **dial 711** to make a relay call for deaf or hearing impaired persons.

**Proposals are as Follows:**

- Goals of fare changes at UTA:
  - Apply a uniform base fare multipliers to simplify fare structure
  - Create a single fare for premium bus services
  - Change current discount structures to align with other discount levels
  - Eliminate some fare products for simplification
- Key Terms
  - Base fare is not changing = \$2.50. Base fare is what is charged for base adult one-way fare.
  - Premium Bus Services = Express Bus, Ski Bus, and Park City Express
    - Premium Services are two times base fare = \$5.00 (or 2 X \$2.50)
  - Monthly and Day Pass Fares:
    - Regular Monthly Fare (Bus & TRAX) = \$2.50 x 34
    - Premium Monthly Fare (Bus, TRAX, & FrontRunner) = \$5.00 X 34
    - Day Pass Fare = \$2.50 X 2

**3. Proposed Changes to Fares**

Current Pass Type	New Pass Type	Proposed Fare Change	Current Cost	New Cost	Why?
Express Bus Route	Premium Bus	Decrease in cost	\$5.50	\$5.00	2 X Base Fare (\$2.50)
Ski Bus & Park City Express	Premium Bus	Increase in cost	\$4.50	\$5.00	2 X Base Fare (\$2.50)
Regular Monthly Pass (Bus & TRAX)	Regular Monthly Pass	Increase in cost	\$83.75	\$85.00	34 X Base Fare (\$2.50)
Premium Monthly Pass (Bus, TRAX, & FrontRunner)	Premium Monthly Pass	Decrease in cost	\$198	\$170	34 X Premium Fare (\$5.00)
Round Trip	Day Pass	Decrease in cost	\$6.25	\$5.00	2 X Base Fare (\$2.50)

**4. Proposed Changes to Discounts**

Pass Type	Current Discount	New Discount	Proposed Fare Change	Why?
Youth	25% on regular monthly passes = \$62.75	50% off Example: Regular bus fare = \$1.25	Decrease cost, more savings	Align with senior/reduced discounts
Horizon Cardholder Pass	25% on regular monthly passes = \$62.75	50% off Example: Regular monthly pass = \$42.50	Decrease cost, more savings	Align with senior/reduced discounts
FAREPAY Card	40% off regular Bus fare = \$1.50 one-way	20% off regular Bus fare = \$2.00 one-way	Increase in cost	Align discount with other modes

**5. Proposed Fare Product Elimination**

Eliminated Fare Type	Replacement Option(s)
Premium monthly upgrade pass	Monthly Premium Pass
Tokens, including 10- and 50-packs	Monthly Pass, FAREPAY Card, Cash, Mobile App, One-way ticket
Park City 30-day pass	FAREPAY Card, Cash
Flex Route Deviations Punch Pass	Cash
Monthly passes sold on Ticket Vending Machines (TVMs)	Monthly passes sold at Customer Service outlets, online, or through mobile app

## Appendix 3 – News Media Coverage

### [UTA proposes fare changes, seeks public comment](#)

<https://www.msn.com/en-us/news/money/uta-proposes...>

Jul 22, 2020 · It **proposes** to decrease a 40% discount on **bus fare** for those who use electronic FAREPAY cards (\$1.50 a ride to a 20% discount (\$2 a ride). It **proposes** boosting a 25% discount on monthly passes for...

### [UTA proposes fare changes, seeks public comment - The Salt ...](#)

<https://www.sltrib.com/news/politics/2020/07/22/uta-proposes-fare-changes>

Jul 22, 2020 · It **proposes** to decrease a 40% discount on **bus fare** for those who use electronic FAREPAY cards (\$1.50 a ride to a 20% discount (\$2 a ride). It **proposes** boosting a 25% discount on monthly passes for...

### [UTA set to restore many transit services, seeks changes to ...](#)

<https://www.ksl.com/article/50003935/uta-set-to...>

Aug 07, 2020 · Morton explained that the **changes** were envisioned before COVID-19 and because UTA wanted to create a **fare** structure that was simple, seamless, efficient and sustainable. The regular bus fare ...

### [UTA changing fares shortly after service ramps back up ...](#)

<https://www.standard.net/news/uta-changing-fares...>

Aug 03, 2020 · Riders enter and exit a train at the Ogden FrontRunner station on Monday, Aug. 3, 2020. UTA is **considering changes** to its fare policy, with the **cost of some services potentially increasing** ...

### [Give Your Feedback on Fares Changes](#)

<https://www.rideuta.com/news/2020/08/Give-Your-Feedback-on-Fares-Changes>

Aug 03, 2020 · The proposed changes reflect these goals. The proposed fare structure changes at UTA include: **Applying uniform base fare multipliers to simplify how fares are determined;** **Creating a single fare for premium bus services;** **Changing current discount structures to align with other discount levels;** **Eliminating some fare products for simplification;** **Key Terms.** Base Fare; Base ...

### [AM News Brief: UTA Fare Change, Police Union On Reform ...](#)

<https://www.kuer.org/post/am-news-brief-uta-fare...>

Aug 12, 2020 · **Waters spoke at a press conference Tuesday** announcing proposed fare changes. UTA hopes to simplify its cost structure, which will result in some tickets costing more and some costing less. The public comment period runs until Aug. 21. — Elaine Clark

## [UTA proposes 3 years of fare increases | KSL.com](#)

<https://www.ksl.com/article/14217368>

SALT LAKE CITY -- The Utah Transit Authority has proposed a gradual increase for bus and transit fares, to keep pace with inflation over the next three years. The change, which UTA is calling...

[PDF]

## [WRITTEN COMMENT ON PROPOSED CHANGES IN UTA ...](#)

[disabilitylawcenter.org/wp-content/uploads/publications/UTA\\_public\\_comment.pdf](https://disabilitylawcenter.org/wp-content/uploads/publications/UTA_public_comment.pdf)

Utah Transit Authority (UTA) is a provider of bus, rail, Paratransit and other public transportation services along the Wasatch front. UTA is proposing a three-year fare schedule which includes increases to its current fares and establishes the fare structure for FrontRunner commuter rail, scheduled to open in 2008. About the Fare Proposal

## [UTA proposes 3 years of fare increases | KSL.com](#)

<https://www.ksl.com/article/14217368>

The change, which UTA is calling "modest," would take place each spring for three years -- making what is now a \$2 bus or TRAX fare a \$2.50 adult regular ticket by 2013. UTA fares would be among ...

## [UTA proposes fare changes, seeks public comment ...](#)

[https://www.newslocker.com/en-us/sport/utah-jazz/...](https://www.newslocker.com/en-us/sport/utah-jazz/)

The Utah Transit Authority is seeking public comment on tweaks that it is proposing to its bus and train fare structure. It is proposing to keep its base fare of \$2.50 per ride the same, but seeks several changes to discounts, passes and charges for premium and express services in what it calls a simplification of its fare structure. Changes would increase some prices and decrease others. For ...

## [Proposed Fares Changes Public Hearing - YouTube](#)

<https://www.youtube.com/watch?v=nLEUh7MdfWo>

Aug 11, 2020 · UTA staff, including Fares Director Monica Morton, detail proposed fare changes and take public comments and questions. You can submit an ...

## [Comments: UTA proposes fare changes, seeks public comment ...](#)

[https://www.sltrib.com/news/politics/2020/07/22/...](https://www.sltrib.com/news/politics/2020/07/22/)

Comments for UTA proposes fare changes, ... (Utah Transit Authority | Courtesy photo) This 2014 file photo shows a UTA fare enforcement surge. UTA proposes fare changes, seeks public comment ...

## Appendix 4 - Supporting Information



### New Proposed Public Fare Tables

Local Bus Service & Trax	Current Fare	Effective 11/1/2020
Adult Cash One-Way	\$2.50	\$2.50
Senior Cash One-Way	\$1.25	\$1.25
Reduce Fare Cash One-Way	\$1.25	\$1.25
Adult Monthly Pass	\$83.75	<b>\$85.00</b>
Senior Monthly Pass	\$41.75	<b>\$42.50</b>
Reduced Fare Monthly Sticker	\$41.75	<b>\$42.50</b>
Student/Youth Monthly Pass	\$62.75	\$42.50
Day Pass	\$6.25	\$5.00
Round Trip Ticket (TRAX only)	\$5.00	<b>Eliminated</b>
Route Deviation (Flex routes)	\$1.25	\$1.25
Route Deviation 10-Punch Pass (Flex routes)	\$12.50	<b>Eliminated</b>
Tokens at Pass Outlets (including 10- and 50-packs)	Quantity dependent	<b>Eliminated</b>
<b>Premium Express Bus Service and FrontRunner</b>		
Premium Express Bus Cash One-Way	\$5.50	\$5.00
Premium Senior/Reduced Fare Cash One-Way	\$2.75	\$2.50
Premium Student/Youth One-Way	\$5.50	\$2.50
Park City One-Way	\$4.50	<b>\$5.00</b>
FrontRunner Base Fare	\$2.50	\$2.50
<i>Each additional station</i>	\$0.60	\$0.60
FrontRunner Senior/Reduced Base Fare	\$1.25	\$1.25
<i>Each additional station</i>	\$0.30	\$0.30
FrontRunner Youth/Student Base Fare	\$2.50	\$1.25
<i>Each additional station</i>	\$0.60	\$0.30
Premium Monthly Pass	\$198.00	\$170.00
Premium Senior/Reduced Monthly Pass	\$99.00	\$85
Premium Student/Youth Monthly Pass	\$148.50	\$85
Upgrade from Regular to Premium Monthly Pass	\$114.25	<b>Eliminated</b>
Park City 30-Day Pass	\$162.00	<b>Eliminated</b>
<b>FAREPAY</b>		
FAREPAY Local Bus Adult One-Way	\$1.50	<b>\$2.00</b>
FAREPAY TRAX Adult One-Way	\$2.00	\$2.00
FAREPAY Premium Express Bus	\$4.40	\$4.00
FAREPAY FrontRunner Adult One-Way	\$2.00	\$2.00
<b>Paratransit</b>		
Paratransit Cash	\$4.00	\$4.00
Paratransit 10-Punch Pass	\$40.00	\$40.00
<b>Ski Service</b>		
Ski Service Cash	\$4.50	<b>\$5.00</b>
Ski Senior/Reduced Cash	\$2.25	<b>\$2.50</b>
Intra-Canyon Ski Cash	\$0	\$0
<b>Other Fares</b>		
Low Income Discount/Horizon Monthly Pass	\$62.75	\$42.50
Group Pass	\$15.00	\$15.00



## Appendix 5 – Supporting Information Continued

# CAMBIOS PROPUESTOS A LA TARIFA

	UN SOLO TRAYECTO	MULTIPLICADORES	DESCUENTOS
<b>TARIFA BASE</b> LA TARIFA BASE DE UN SOLO TRAYECTO PARA ADULTO	 <b>\$2.50</b>	Los pases mensuales se usan alrededor de 34 veces al mes <b>\$2.50x34</b> <b>\$85</b>	Los pases diarios se usan alrededor de 2 veces al día <b>\$2.50x2</b> <b>\$5</b>
		<b>DESCUENTOS</b>	
			Descuento Horizon 50% <b>\$2.50/2</b> Pase mensual <b>\$42.50</b>
			Descuento FAREPAY 20% <b>\$2.50</b> Tarifa de un solo trayecto <b>\$2.00</b>

	UN SOLO TRAYECTO	MULTIPLICADORES	
<b>TARIFA BASE PREMIUM</b> LOS SERVICIOS PREMIUM INCLUYEN EXPRESS BUS, SKI, BUS Y PARK CITY EXPRESS*	 <b>\$5.00</b>	La tarifa Premium es la tarifa base x2 <b>2X\$2.50</b> <b>\$5.00</b>	Los pases mensuales Premium se utilizan alrededor de 34 veces al mes e incluyen FrontRunner <b>\$5.00x34</b> <b>\$170</b>

\* Los servicios enumerados son los Servicios de Premium Bus.

## BUENAS NOTICIAS

- Pase mensual Premium (Bus, Trax, FrontRunner) reducido de \$198 a \$170
- Viaje Redondo reemplazado con Pase Diario, que se reduce de \$6.25 a \$5.00
- Incremento en el descuento para jóvenes de 25% a 50% = Precio reducido del Pase Mensual de \$62.70 a \$42.50
- Incremento en el descuento de la tarjeta Horizon de 25% a 50% = Precio reducido del Pase Mensual de \$62.70 a \$42.50
- Tarifa reducida de \$5.50 a \$5.00 para el Express Bus

## PRODUCTOS DE TARIFAS ELIMINADOS

- Pase mejorado mensual Premium
- Todas las ventas de fichas, incluyendo los paquetes de 10 y 50 fichas (Habrán créditos disponibles por las fichas)
- El pase Park City de 30 días
- Pase perforable Flex Route Deviations
- Los pases mensuales vendidos en las máquinas expendedoras de boletos (TVMs)

ENCUENTRE MÁS INFORMACIÓN EN  
[rideuta.com/farechanges](http://rideuta.com/farechanges)

# PROPOSED FARE CHANGES

	SINGLE RIDE	MULTIPLIERS	DISCOUNTS			
<b>BASE FARE</b> THE BASE ADULT ONE-WAY FARE.	 <b>\$2.50</b>	Monthly Passes are used about 34 times a month $\$2.50 \times 34$ <b>\$85</b>	Day Passes are used about twice a day $\$2.50 \times 2$ <b>\$5</b>	Youth Discount 50% $\$2.50 / 2$	Horizon Discount 50% $\$2.50 / 2$	FAREPAY Discount 20% $\$2.50$
				One-Way Fare <b>\$1.25</b> Monthly Pass <b>\$42.50</b>	Monthly Pass <b>\$42.50</b>	One-Way Fare <b>\$2.00</b>

	SINGLE RIDE	MULTIPLIERS	
<b>PREMIUM BUS FARE</b> PREMIUM SERVICES INCLUDE EXPRESS BUS, SKI BUS, AND PARK CITY EXPRESS*	 <b>\$5.00</b>	Premium Fare is 2xBase Fare. $2 \times \$2.50$ <b>\$5.00</b>	Premium Monthly Passes are used about 34 times a month (these include FrontRunner) $\$5.00 \times 34$ <b>\$170</b>

\* Services listed are Premium Bus Services

### GOOD NEWS

- Premium Monthly Pass (Bus, TRAX, FrontRunner) reduced from \$198 to \$170
- Round Trip replaced with Day Pass, which is reduced from \$6.25 to \$5.00
- Youth discount increased from 25% to 50% = Monthly Pass price reduced from \$62.70 to \$42.50
- Horizon card discount from increased 25% to 50% = Monthly Pass price reduced from \$62.70 to \$42.50
- Express bus fare reduced from \$5.50 to \$5.00

### ELIMINATE FARE PRODUCTS

- Premium monthly upgrade pass
- All token sales including 10-pack and 50-pack (credit for tokens will be available)
- Park City 30-Day pass
- Flex Route Deviations Punch Pass
- Monthly passes sold on Ticket Vending Machines (TVMs)

\*Fares not listed are not changing

LEARN MORE AT [rideuta.com/farechanges](http://rideuta.com/farechanges)





## MEMORANDUM TO THE BOARD

**TO:** Utah Transit Authority Board of Trustees  
**THROUGH:** Carolyn Gonot, Executive Director  
**FROM:** Eddy Cumins, Chief Operating Officer  
**PRESENTER(S):** Dave Hancock, Director of Asset Management  
 Kevin Anderson, Facilities Maintenance Manager

**BOARD MEETING DATE:** October 7, 2020

<b>SUBJECT:</b> Mt. Ogden Bus Lift Replacement (Stertil Koni)		
<b>AGENDA ITEM TYPE:</b>	Expense Contract	
<b>RECOMMENDATION:</b>	Approve contract and authorize Executive Director to execute contract and associated disbursements with Stertil Koni USA to purchase and install a Diamond 96 bus lift for the Mt. Ogden Service unit in the amount of \$218,549.	
<b>BACKGROUND:</b>	<p>The in-ground bus lift located in bay 10 at the Mt. Ogden Maintenance Facility is over 30 years old and has become problematic and expensive to maintain. When a lift reaches this age, safety also becomes a concern. This type of in-ground lift is also susceptible to leakage causing environmental concerns.</p> <p>UTA Facilities has successfully replaced several outdated in-ground lifts over the past 5 years. Stertil Koni Diamond 96 lifts have been the popular replacement choice with the Facilities Department, and the bus mechanics that use them daily. These high capacity lifts are user friendly, easily maintained, and environmentally safe.</p>	
<b>DISCUSSION:</b>	UTA Staff is requesting approval of contract with Stertil Koni to purchase a Diamond 96 bus lift for the Mt. Ogden Service unit in the amount of \$218,549. UTA will be using State of Utah and NASPO contract MA2003 for this purchase. The scope of this request includes the purchase of the Diamond 96 lift, removal and disposal of existing equipment, installation of new lift, load test, and mechanic orientation. Rocky Mountain Lifts, as an exclusive authorized installer in Utah for Stertil Koni, will perform the installation as part of the contract with Stertil Koni. The new lift will have a two-year parts, and one-year labor warranty. The lifespan of the new lift is estimated at twenty thousand duty cycles which translates to approximately 15-20 years. The expected completion date is not later than March 31, 2021.	
<b>CONTRACT SUMMARY:</b>	Contractor Name: Stertil Koni USA	Contract Number: 20-03344
	Base Contract Effective Dates: October 7, 2020 - March 31, 2021	Extended Contract Dates:

	Existing Contract Value: \$0	Amendment Amount: \$0
	New/Total Amount Contract Value: \$218,549	
	Procurement Method: State Contract	Funding Sources: Facilities Capital Projects 2020 Budget
<b>ALTERNATIVES:</b>	Replace lift at a later date risking failure.	
<b>FISCAL IMPACT:</b>	This budget is included in the 2020 Capital Program.	
<b>ATTACHMENTS:</b>	<ul style="list-style-type: none"> <li>1) Purchase Order</li> <li>2) State Contract</li> </ul>	

<b>STERTIL KONI USA INC.</b> 200 Log Canoe Circle Stevensville MD 21666				PURCHASE ORDER NUMBER		OG		16509	
				PO Number Must Appear On All Invoices And Shipments					
<b>SHIP TO:</b> <b>ATTENTION: RECEIVING</b> 3600 S 700 W Salt Lake City UT 84119		An Equal Opportunity Employer  <b>801-287-3008</b> <b>www.rideuta.com</b>		VENDOR NUMBER		1204653		PO DATE	
				ORDER TAKEN BY		Burton, Amanda		FOB	
SEND INVOICE TO: <b>AP@RIDEUTA.COM</b> 669 W 200 S SLC, UT 84101		<b>SHIP TO:</b> <b>ATTENTION: RECEIVING</b> 3600 S 700 W Salt Lake City UT 84119		<b>801-287-3008</b> <b>www.rideuta.com</b>		BUYER		PAGE NUMBER	
						Burton, Amanda		1 of 1	

Confirmation: Do not Duplicate  
**Utah Transit Authority Is Tax Exempt**      Total PO Value: 218,548.54      Ship as soon as possible. Early Shipments Allowed

LINE #	REQ #	CONFIRMED DELIVERY DATE	QUANTITY	PART NUMBER ACCOUNT CODE	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1	00008394	9/11/20	1 EA	40-1653.68912	Change last inground lift Ogde Ogden buss 17th wall ave.	218548.5400	218,548.54

Terms and Conditions will Follow NASPO and State of Utah Contract MA2003



## DIA96-13-3.25

### Scope of Work

Contractor needs to provide the following work in conjunction with Steril Koni's EFR drawings including:

- Visqueen plastic for dust and dirt control.
- Cut concrete, remove & dispose.
- Demolition and disposal of the existing ground lift and concrete floor.
- Excavation for new footings.
- Trucking and disposal of excess dirt.
- Concrete footing for cassette placement, min of 8" thick for front cassette with rebar mat, min of 12" thick for rear mechanisms with a double rebar mat
- Backfill with ¾" gravel.
- Concrete flatwork: Engineered concrete mix, 8" thick.

August 27, 2020

To Whom it May Concern,

This letter certifies that Rocky Mountain Lifts is the exclusive authorized Stertil-Koni dealer to sell, install and service Stertil-Koni equipment in Utah.

Rocky mountain Lifts sales and service personnel have been factory trained and are fully qualified to sell, install, and provide warranty and repair services for Stertil-Koni products.

Location:

Rocky Mountain Lifts  
2206 South 2000 West  
West Valley City, UT 84119  
Tel: (801) 580-4744  
Email: [scott@rockymountainlifts.com](mailto:scott@rockymountainlifts.com)  
Website: [www.rockymountainlifts.com](http://www.rockymountainlifts.com)

Kind Regards,

*Jean DellAmore*

Jean DellAmore, President



## STATE OF UTAH COOPERATIVE CONTRACT AMENDMENT

AMENDMENT #: 1

CONTRACT #: MA2003

Starting Date: 02/10/2017

Expiration Date: 02/10/2019

TO BE ATTACHED AND MADE PART OF the specified contract by and between the State of Utah Division of Purchasing and **Stertil Koni Usa Inc.** (Referred to as CONTRACTOR).

**BOTH PARTIES AGREE TO AMEND THE CONTRACT AS FOLLOWS:** Add a new Section 8, which reads:

8. Contract Effective Dates: This Participating Addendum is effective upon final signature of both parties, and expires upon the expiration or termination of the NASPO ValuePoint Master Agreement #05316 between the Contractor and the State of Washington. A contract amendment is not necessary in the event of the renewal or extension of the Master Agreement, so long as such renewal/extension was originally provided within the solicitation supporting the Master Agreement.

Effective Date of Amendment: December 13, 2018

All other terms and conditions of the contract, including those previously modified, shall remain in full force and effect.  
IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

### CONTRACTOR STATE OF UTAH

*Kellie Boehm*  
Jan 10, 2019

*Christopher Hughes* Jan 11, 2019  
[Christopher Hughes \(Jan 11, 2019\)](#)

Contractor's Signature Date

Christopher Hughes Director  
State of Utah Division of Purchasing

Date

**Kellie Boehm**

Contractor's Name (Print)

**Administrative Sales Manager**

Title (Print)

Purchasing Agent	Phone #	e-mail	Contract #
Timothy Hodges	(801) 538-3150	<a href="mailto:thodges@utah.gov">thodges@utah.gov</a>	MA2003



**VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**  
Led by the State of Washington

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Master Agreement #: **05316**

Contractor: **STERTIL-KONI USA, INC.**

Participating Entity: **STATE OF UTAH**

The following products or services are included in this contract portfolio:

- Removable Example: All products and accessories listed on the Contractor page of the NASPO ValuePoint website.

The following products or services are not included in this agreement:

- Removable Example: Product modifications.
- Removable Example: Installation services.

**Master Agreement Terms and Conditions:**

1. Scope: This addendum covers the Vehicle Lifts and Garage Associated Equipment led by the State of Washington for use by state agencies and other entities located in the Participating State [or State Entity] authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.
2. Participation: This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of Utah. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name:	Kellie Boehm
Address:	200 Log Canoe Circle, Stevensville, MD 21666
Telephone:	(410) 643-4434
Fax:	(410) 643-8901
Email:	<a href="mailto:kellie@stertil-koni.com">kellie@stertil-koni.com</a>

## **VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

Led by the State of Washington

### Participating Entity

Name:	Linda Crawford
Address:	3150 State Office Building, Capitol Hill, Salt Lake City, Utah 84114-1061
Telephone:	(801) 538-3150
Fax:	(801) 538-3882
Email:	lindacrawford@utah.gov

### **4. PARTICIPATING ENTITY MODIFICATIONS OR ADDITIONS TO THE MASTER AGREEMENT**

These modifications or additions apply only to actions and relationships within the Participating Entity.

Participating Entity must check one of the boxes below.

No changes to the terms and conditions of the Master Agreement are required.

The following changes are modifying or supplementing the Master Agreement terms and conditions:

#### **ATTACHMENT A: STATE OF UTAH STANDARD TERMS AND CONDITIONS FOR GOODS AND SERVICES**

1. **DEFINITIONS:** The following terms shall have the meanings set forth below:
  - a) **"Confidential Information"** means information that is deemed as confidential under applicable state and federal laws, including personal information. The Eligible User reserves the right to identify, during and after this Contract, additional reasonable types of categories of information that must be kept confidential under federal and state laws.
  - b) **"Contract"** means the Contract Signature Page(s), including all referenced attachments and documents incorporated by reference. The term "Contract" shall include any purchase orders that result from this Contract.
  - c) **"Contract Signature Page(s)"** means the State of Utah cover page(s) that the Division and Contractor signed.
  - d) **"Contractor"** means the individual or entity delivering the Procurement Item identified in this Contract. The term "Contractor" shall include Contractor's agents, officers, employees, and partners.
  - e) **"Division"** means the Division of Purchasing and General Services.
  - f) **"Eligible User(s)"** means those authorized to use State Cooperative Contracts and includes the State of Utah's government departments, institutions, agencies, political subdivisions (e.g., colleges, school districts, counties, cities, etc.), and, as applicable, nonprofit organizations, agencies of the federal government, or any other entity authorized by the laws of the State of Utah to participate in State Cooperative Contracts.
  - g) **"End User Agreement"** means any agreement that Eligible Users are required to sign in order to participate in this Contract, including an end user agreement, customer agreement, memorandum of understanding, statement of work, lease agreement, service level agreement, or any other named separate agreement.
  - h) **"Procurement Item"** means a supply, a service, construction, or technology that Contractor is required to deliver to the Eligible User under this Contract.
  - i) **"Response"** means the Contractor's bid, proposals, quote, or any other document used by the Contractor to respond to the Solicitation.
  - j) **"Solicitation"** means an invitation for bids, request for proposals, notice of a sole source procurement, request for statement of qualifications, request for information, or any document used to obtain bids, proposals, pricing, qualifications, or information for the purpose of entering into this Contract.
  - k) **"State of Utah"** means the State of Utah, in its entirety, including its institutions, agencies, departments, divisions, authorities, instrumentalities, boards, commissions, elected or appointed officers, employees, agents, and authorized



## **VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

Led by the State of Washington

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- volunteers.
- l) **"Subcontractors"** means a person under contract with a contractor or another subcontractor to provide services or labor for design or construction, including a trade contractor or specialty contractor.
  2. **GOVERNING LAW AND VENUE:** This Contract shall be governed by the laws, rules, and regulations of the State of Utah. Any action or proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
  3. **LAWS AND REGULATIONS:** At all times during this Contract, Contractor and all Procurement Items delivered and/or performed under this Contract will comply with all applicable federal and state constitutions, laws, rules, codes, orders, and regulations, including applicable licensure and certification requirements. If this Contract is funded by federal funds, either in whole or in part, then any federal regulation related to the federal funding, including CFR Appendix II to Part 200, will supersede this Attachment A.
  4. **RECORDS ADMINISTRATION:** Contractor shall maintain or supervise the maintenance of all records necessary to properly account for Contractor's performance and the payments made under this Contract. These records shall be retained by Contractor for at least six (6) years after final payment, or until all audits initiated within the six (6) years have been completed, whichever is later. Contractor agrees to allow, at no additional cost, the State of Utah, federal auditors, Division staff, or their designees, access to all such records during normal business hours and to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Contract.
  5. **PERMITS:** If necessary Contractor shall procure and pay for all permits, licenses, and approvals necessary for the execution of this Contract.
  6. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** The Status Verification System, also referred to as "E-verify", only applies to contracts issued through a Request for Proposal process, to sole sources that are included within a Request for Proposal, and when Contractor employs any personnel in Utah.
    - a. Contractor certifies as to its own entity, under penalty of perjury, that Contractor has registered and is participating in the Status Verification System to verify the work eligibility status of Contractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
    - b. Contractor shall require that each of its Subcontractors certify by affidavit, as to their own entity, under penalty of perjury, that each Subcontractor has registered and is participating in the Status Verification System to verify the work eligibility status of Subcontractor's new employees that are employed in the State of Utah in accordance with applicable immigration laws.
    - c. Contractor's failure to comply with this section will be considered a material breach of this Contract.
  7. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the Division or the State of Utah, unless disclosure has been made to the Division.
  8. **INDEPENDENT CONTRACTOR:** Contractor and Subcontractors, in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of the Division or the State of Utah.
  9. **CONTRACTOR RESPONSIBILITY:** Contractor is solely responsible for fulfilling the contract, with responsibility for all Procurement Items delivered and/or performed as stated in this Contract. Contractor shall be the sole point of contact regarding all contractual matters. Contractor must incorporate Contractor's responsibilities under this Contract into every subcontract with its Subcontractors that will provide the Procurement Item(s) to the Eligible Users under this Contract. Moreover, Contractor is responsible for its Subcontractors compliance under this Contract.
  10. **INDEMNITY:** Contractor shall be fully liable for the actions of its agents, employees, officers, partners, and Subcontractors, and shall fully indemnify, defend, and save harmless the Division, the Eligible Users and the State of Utah from all claims, losses, suits, actions, damages, and costs of every name and description arising out of Contractor's performance of this Contract caused by any intentional act or negligence of Contractor, its agents, employees, officers, partners, or Subcontractors, without limitation; provided, however, that the Contractor shall not indemnify for that portion of any claim, loss, or damage arising hereunder due to the sole fault of an Eligible User. The parties agree that if there are any limitations

## **VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

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of the Contractor's liability, including a limitation of liability clause for anyone for whom the Contractor is responsible, such limitations of liability will not apply to injuries to persons, including death, or to damages to property of an Eligible User.

11. **EMPLOYMENT PRACTICES:** Contractor agrees to abide by any other laws, regulations, or orders that prohibit the discrimination of any kind by any of Contractor's employees.
12. **AMENDMENTS:** This Contract may only be amended by the mutual written agreement by the Division and Contractor, which amendment will be attached to this Contract. Automatic renewals will not apply to this Contract, even if identified elsewhere in this Contract.
13. **DEBARMENT:** Contractor certifies that it is not presently nor has ever been debarred, suspended, proposed for debarment, or declared ineligible by any governmental department or agency, whether international, national, state, or local. Contractor must notify the Division within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity during this Contract.
14. **TERMINATION:** Unless otherwise stated in this Contract, this Contract may be terminated, with cause by either party, in advance of the specified expiration date, upon written notice given by the other party. The party in violation will be given ten (10) days after written notification to correct and cease the violations, after which this Contract may be terminated for cause immediately and subject to the remedies below. This Contract may also be terminated without cause (for convenience), in advance of the specified expiration date, by either party, upon thirty (30) days written termination notice being given to the other party. The Division and the Contractor may terminate this Contract, in whole or in part, at any time, by mutual agreement in writing.

On termination of this Contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved and conforming Procurement Items ordered prior to date of termination. In no event shall the Eligible Users be liable to the Contractor for compensation for any Procurement Item neither requested nor accepted by an Eligible User. In no event shall the Division's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the Eligible Users for any damages or claims arising under this Contract.

15. **NONAPPROPRIATION OF FUNDS, REDUCTION OF FUNDS, OR CHANGES IN LAW:** Upon thirty (30) days written notice delivered to the Contractor, a purchase order that results from this Contract may be terminated in whole or in part at the sole discretion of an Eligible User, if an Eligible User reasonably determines that: (i) a change in Federal or State legislation or applicable laws materially affects the ability of either party to perform under the terms of this Contract; or (ii) that a change in available funds affects an Eligible User's ability to pay under this Contract. A change of available funds as used in this paragraph includes, but is not limited to a change in Federal or State funding, whether as a result of a legislative act or by order of the President or the Governor.

If a written notice is delivered under this section, an Eligible User will reimburse Contractor for the Procurement Item(s) properly ordered and/or properly performed until the effective date of said notice. An Eligible User will not be liable for any performance, commitments, penalties, or liquidated damages that accrue after the effective date of said written notice.

16. **SALES TAX EXEMPTION:** The Procurement Item(s) under this Contract will be paid for from an Eligible User's funds and used in the exercise of an Eligible Users essential functions. Upon request, an Eligible User will provide Contractor with its sales tax exemption number. It is Contractor's responsibility to request an Eligible User's sales tax exemption number. It also is Contractor's sole responsibility to ascertain whether any tax deduction or benefits apply to any aspect of this Contract.
17. **WARRANTY OF PROCUREMENT ITEM(S):** Contractor warrants, represents and conveys full ownership and clear title, free of all liens and encumbrances, to the Procurement Item(s) delivered to an Eligible User under this Contract. Contractor warrants for a period of one (1) year that: (i) the Procurement Item(s) perform according to all specific claims that Contractor made in its Response; (ii) the Procurement Item(s) are suitable for the ordinary purposes for which such Procurement Item(s) are used; (iii) the Procurement Item(s) are suitable for any special purposes identified in the Contractor's Response; (iv) the Procurement Item(s) are designed and manufactured in a commercially reasonable manner; (v) the Procurement Item(s) are manufactured and in all other respects create no harm to persons or property; and (vi) the Procurement Item(s) are free of defects. Unless otherwise specified, all Procurement Item(s) provided shall be new and unused of the latest model or design.

Remedies available to an Eligible User under this section include, but are not limited to, the following: Contractor will repair or replace Procurement Item(s) at no charge to the Eligible User within ten (10) days of any written notification informing Contractor of the Procurement Items not performing as required under this Contract. If the repaired and/or replaced



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Procurement Item(s) prove to be inadequate, or fail its essential purpose, Contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies an Eligible User may otherwise have under this Contract.

18. **INSURANCE:** Contractor shall at all times during the term of this Contract, without interruption, carry and maintain commercial general liability insurance from an insurance company authorized to do business in the State of Utah. The limits of this insurance will be no less than one million dollars (\$1,000,000.00) per occurrence and three million dollars (\$3,000,000.00) aggregate. Contractor also agrees to maintain any other insurance policies required in the Solicitation. Contractor shall provide proof of the general liability insurance policy and other required insurance policies to the Division within thirty (30) days of contract award. Contractor must add the State of Utah as an additional insured with notice of cancellation. Failure to provide proof of insurance as required will be deemed a material breach of this Contract. Contractor's failure to maintain this insurance requirement for the term of this Contract will be grounds for immediate termination of this Contract.
19. **WORKERS' COMPENSATION INSURANCE:** Contractor shall maintain workers' compensation insurance during the term of this Contract for all its employees and any Subcontractor employees related to this Contract. Workers' compensation insurance shall cover full liability under the workers' compensation laws of the jurisdiction in which the work is performed at the statutory limits required by said jurisdiction.
20. **PUBLIC INFORMATION:** Contractor agrees that this Contract, related purchase orders, related pricing documents, and invoices will be public documents and may be available for public and private distribution in accordance with the State of Utah's Government Records Access and Management Act (GRAMA). Contractor gives the Division, the Eligible Users, and the State of Utah express permission to make copies of this Contract, related sales orders, related pricing documents, and invoices in accordance with GRAMA. Except for sections identified in writing by Contractor and expressly approved by the Division, Contractor also agrees that the Contractor's Response will be a public document, and copies may be given to the public as permitted under GRAMA. The Division, the Eligible Users, and the State of Utah are not obligated to inform Contractor of any GRAMA requests for disclosure of this Contract, related purchase orders, related pricing documents, or invoices.
21. **DELIVERY:** All deliveries under this Contract will be F.O.B. destination with all transportation and handling charges paid for by Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to an Eligible User, except as to latent defects or fraud. Contractor shall strictly adhere to the delivery and completion schedules specified in this Contract.
22. **ACCEPTANCE AND REJECTION:** An Eligible User shall have thirty (30) days after delivery of the Procurement Item(s) to perform an inspection of the Procurement Item(s) to determine whether the Procurement Item(s) conform to the standards specified in the Solicitation and this Contract prior to acceptance of the Procurement Item(s) by the Eligible User.  
If Contractor delivers nonconforming Procurement Item(s), an Eligible User may, at its option and at Contractor's expense: (i) return the Procurement Item(s) for a full refund; (ii) require Contractor to promptly correct or replace the nonconforming Procurement Item(s); or (iii) obtain replacement Procurement Item(s) from another source, subject to Contractor being responsible for any cover costs. Contractor shall not redeliver corrected or rejected Procurement Item(s) without: first, disclosing the former rejection or requirement for correction; and second, obtaining written consent of the Eligible User to redeliver the corrected Procurement Item(s). Repair, replacement, and other correction and redelivery shall be subject to the terms of this Contract.
23. **INVOICING:** Contractor will submit invoices within thirty (30) days of the delivery date of the Procurement Item(s) to the Eligible User. The contract number shall be listed on all invoices, freight tickets, and correspondence relating to this Contract. The prices paid by an Eligible User will be those prices listed in this Contract, unless Contractor offers a prompt payment discount within its Response or on its invoice. Eligible Users have the right to adjust or return any invoice reflecting incorrect pricing.
24. **PAYMENT:** Payments are to be made within thirty (30) days after a correct invoice is received. All payments to Contractor will be remitted by mail, electronic funds transfer, or the State of Utah's Purchasing Card (major credit card). If payment has not been made after sixty (60) days from the date a correct invoice is received by an Eligible User, then interest may be added by Contractor as prescribed in the Utah Prompt Payment Act. The acceptance by Contractor of final payment, without

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- a written protest filed with the Eligible User within ten (10) business days of receipt of final payment, shall release the Eligible User from all claims and all liability to the Contractor. An Eligible User's payment for the Procurement Item(s) and/or Services shall not be deemed an acceptance of the Procurement Item(s) and is without prejudice to any and all claims that the Eligible User may have against Contractor. Contractor shall not charge Eligible Users electronic payment fees of any kind.
25. **INDEMNIFICATION RELATING TO INTELLECTUAL PROPERTY:** Contractor will indemnify and hold the Division, the Eligible Users, and the State of Utah harmless from and against any and all damages, expenses (including reasonable attorneys' fees), claims, judgments, liabilities, and costs in any action or claim brought against the Division, the Eligible User, or the State of Utah for infringement of a third party's copyright, trademark, trade secret, or other proprietary right. The parties agree that if there are any limitations of Contractor's liability, such limitations of liability will not apply to this section.
26. **OWNERSHIP IN INTELLECTUAL PROPERTY:** The Division, the Eligible User, and Contractor each recognizes that each has no right, title, or interest, proprietary or otherwise, in the intellectual property owned or licensed by the other, unless otherwise agreed upon by the parties in writing. All Procurement Item(s), documents, records, programs, data, articles, memoranda, and other materials not developed or licensed by Contractor prior to the execution of this Contract, but specifically manufactured under this Contract shall be considered work made for hire, and Contractor shall transfer any ownership claim to the Eligible User.
27. **ASSIGNMENT:** Contractor may not assign, sell, transfer, subcontract or sublet rights, or delegate any right or obligation under this Contract, in whole or in part, without the prior written approval of the Division.
28. **REMEDIES:** Any of the following events will constitute cause for an Eligible User to declare Contractor in default of this Contract: (i) Contractor's non-performance of its contractual requirements and obligations under this Contract; or (ii) Contractor's material breach of any term or condition of this Contract. An Eligible User may issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains after Contractor has been provided the opportunity to cure, an Eligible User may do one or more of the following: (i) exercise any remedy provided by law or equity; (ii) terminate this Contract; (iii) impose liquidated damages, if liquidated damages are listed in this Contract; (iv) debar/suspend Contractor from receiving future contracts from the Division; or (v) demand a full refund of any payment that the Eligible User has made to Contractor under this Contract for Procurement Item(s) that do not conform to this Contract.
29. **FORCE MAJEURE:** Neither an Eligible User nor Contractor will be held responsible for delay or default caused by fire, riot, act of God, and/or war which is beyond that party's reasonable control. An Eligible User may terminate a purchase order resulting from this Contract after determining such delay will prevent Contractor's successful performance of this Contract.
30. **CONFIDENTIALITY:** If Confidential Information is disclosed to Contractor, Contractor shall: (i) advise its agents, officers, employees, partners, and Subcontractors of the obligations set forth in this Contract; (ii) keep all Confidential Information strictly confidential; and (iii) not disclose any Confidential Information received by it to any third parties. Contractor will promptly notify an Eligible User of any potential or actual misuse or misappropriation of Confidential Information.
- Contractor shall be responsible for any breach of this duty of confidentiality, including any required remedies and/or notifications under applicable law. Contractor shall indemnify, hold harmless, and defend the Eligible User, including anyone for whom the Eligible User is liable, from claims related to a breach of this duty of confidentiality, including any notification requirements, by Contractor or anyone for whom the Contractor is liable.
- Upon termination or expiration of this Contract, Contractor will return all copies of Confidential Information to the Eligible User or certify, in writing, that the Confidential Information has been destroyed. This duty of confidentiality shall be ongoing and survive the termination or expiration of this Contract.
31. **LARGE VOLUME DISCOUNT PRICING:** Eligible Users may seek to obtain additional volume discount pricing for large orders provided Contractor is willing to offer additional discounts for large volume orders. No amendment to this Contract is necessary for Contractor to offer discount pricing to an Eligible User for large volume purchases.
32. **ELIGIBLE USER PARTICIPATION:** Participation under this Contract by Eligible Users is voluntarily determined by each Eligible User. Contractor agrees to supply each Eligible User with Procurement Items based upon the same terms, conditions, and prices of this Contract.
33. **INDIVIDUAL CUSTOMERS:** Each Eligible User that purchases Procurement Items from this Contract will be treated as individual customers. Each Eligible User will be responsible to follow the terms and conditions of this Contract. Contractor



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agrees that each Eligible User will be responsible for their own charges, fees, and liabilities. Contractor shall apply the charges to each Eligible User individually. The Division is not responsible for any unpaid invoice.

**34. REPORTS AND FEES:**

a. **Administrative Fee:** Contractor agrees to provide a quarterly administrative fee to the Division in the form of a Check or EFT payment. The fee will be payable to the "State of Utah Division of Purchasing" and will be sent to State of Utah, Division of Purchasing, 3150 State Office Building, Capitol Hill, PO Box 141061, Salt Lake City, UT 84114. The quarterly administrative fee will be the amount of .25% and will apply to all purchases (net of any returns, credits, or adjustments) made under this Contract.

b. **Quarterly Reports:** Contractor agrees to provide a quarterly utilization report, reflecting net sales to the State during the associated fee period. The report will show the quantities and dollar volume of purchases by each agency and political subdivision. The quarterly report will be provided in secure electronic format and/or submitted electronically to the Utah reports email address: [salesreports@utah.gov](mailto:salesreports@utah.gov).

c. **Report Schedule:** Quarterly utilization reports shall be made in accordance with the following schedule:

Period End	Reports Due
March 31	April 30
June 30	July 31
September 30	October 31
December 31	January 31

d. **Fee Payment:** After the Division receives the quarterly utilization report, it will send Contractor an invoice for the total quarterly administrative fee owed to the Division. Contractor shall pay the quarterly administrative fee within thirty (30) days from receipt of invoice.

e. **Timely Reports and Fees:** If the quarterly administrative fee is not paid by thirty (30) days of receipt of invoice or quarterly utilization reports are not received by the report due date, then Contractor will be in material breach of this Contract.

35. **ORDERING:** Orders will be placed by the using Eligible User directly with Contractor. All orders will be shipped promptly in accordance with the terms of this Contract.
36. **END USER AGREEMENTS:** If Eligible Users are required by Contractor to sign an End User Agreement before participating in this Contract, then a copy of the End User Agreement must be attached to this Contract as an attachment. The term of the End User Agreement shall not exceed the term of this Contract, and the End User Agreement will automatically terminate upon the completion of termination of this Contract. An End User Agreement must reference this Contract, and may not be amended or changed unless approved in writing by the Division. Eligible Users will not be responsible or obligated for any early termination fees if the End User Agreement terminates as a result of completion or termination of this Contract.
37. **PUBLICITY:** Contractor shall submit to the Division for written approval all advertising and publicity matters relating to this Contract. It is within the Division's sole discretion whether to provide approval, which approval must be in writing.
38. **WORK ON STATE OF UTAH OR ELIGIBLE USER PREMISES:** Contractor shall ensure that personnel working on the premises of an Eligible User shall: (i) abide by all of the rules, regulations, and policies of the premises; (ii) remain in authorized areas; (iii) follow all instructions; and (iv) be subject to a background check, prior to entering the premises. The Eligible User may remove any individual for a violation hereunder.
39. **CONTRACT INFORMATION:** During the duration of this Contract the State of Utah Division of Purchasing is required to make available contact information of Contractor to the State of Utah Department of Workforce Services. The State of Utah Department of Workforce Services may contact Contractor during the duration of this Contract to inquire about Contractor's job vacancies within the State of Utah.
40. **WAIVER:** A waiver of any right, power, or privilege shall not be construed as a waiver of any subsequent right, power, or privilege.
41. **SUSPENSION OF WORK:** Should circumstances arise which would cause an Eligible User to suspend Contractor's responsibilities under this Contract, but not terminate this Contract, this will be done by formal written notice pursuant to

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- the terms of this Contract. Contractor's responsibilities may be reinstated upon advance formal written notice from the Eligible User.
42. **PROCUREMENT ETHICS:** Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan, reward, or any promise thereof to any person acting as a procurement officer on behalf of the State of Utah, or to any person in any official capacity who participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization.
  43. **CHANGES IN SCOPE:** Any changes in the scope of the services to be performed under this Contract shall be in the form of a written amendment to this Contract, mutually agreed to and signed by both parties, specifying any such changes, fee adjustments, any adjustment in time of performance, or any other significant factors arising from the changes in the scope of services.
  44. **ATTORNEY'S FEES:** In the event of any judicial action to enforce rights under this Contract, the prevailing party shall be entitled its costs and expenses, including reasonable attorney's fees incurred in connection with such action.
  45. **TRAVEL COSTS:** If travel expenses are permitted by the Solicitation All travel costs associated with the delivery of Services under this Contract will be paid according to the rules and per diem rates found in the Utah Administrative Code R25-7. Invoices containing travel costs outside of these rates will be returned to the vendor for correction.
  46. **PERFORMANCE EVALUATION:** The Division may conduct a performance evaluation of Contractor, including Contractor's Subcontractors. Results of any evaluation may be made available to Contractor upon request.
  47. **STANDARD OF CARE:** The services performed by Contractor and its Subcontractors shall be performed in accordance with the standard of care exercised by licensed members of their respective professions having substantial experience providing similar services which similarities include the type, magnitude, and complexity of the services that are the subject of this Contract. Contractor shall be liable to the Eligible User for claims, liabilities, additional burdens, penalties, damages, or third party claims (e.g., another Contractor's claim against the State of Utah), to the extent caused by wrongful acts, errors, or omissions that do not meet this standard of care.
  48. **REVIEWS:** The Division reserves the right to perform plan checks, plan reviews, other reviews, and/or comment upon the services of Contractor. Such reviews do not waive the requirement of Contractor to meet all of the terms and conditions of this Contract.
  49. **DISPUTE RESOLUTION:** Prior to either party filing a judicial proceeding, the parties agree to participate in the mediation of any dispute. The Division or an Eligible User, after consultation with Contractor, may appoint an expert or panel of experts to assist in the resolution of a dispute. If the Division or an Eligible User appoints such an expert or panel, the Division or the Eligible User and Contractor agree to cooperate in good faith in providing information and documents to the expert or panel in an effort to resolve the dispute.
  50. **ORDER OF PRECEDENCE:** In the event of any conflict in the terms and conditions in this Contract, the order of precedence shall be: (i) this Attachment A; (ii) Contract Signature Page(s); (iii) the State of Utah's additional terms and conditions, if any; (iv) any other attachment listed on the Contract Signature Page(s); and (v) Contractor's terms and conditions that are attached to this Contract, if any. Any provision attempting to limit the liability of Contractor or limit the rights of an Eligible User, the Division, or the State of Utah must be in writing and attached to this Contract or it is rendered null and void.
  51. **SURVIVAL OF TERMS:** Termination or expiration of this Contract shall not extinguish or prejudice Eligible Users' right to enforce this Contract with respect to any default of this Contract or defect in the Procurement Item(s) that has not been cured, or of any of the following clauses, including: Governing Law and Venue, Laws and Regulations, Records Administration, Remedies, Dispute Resolution, Indemnity, Newly Manufactured, Indemnification Relating to Intellectual Property, Warranty of Procurement Item(s), Insurance.
  52. **SEVERABILITY:** The invalidity or unenforceability of any provision, term, or condition of this Contract shall not affect the validity or enforceability of any other provision, term, or condition of this Contract, which shall remain in full force and effect.
  53. **ERRORS AND OMISSIONS:** Contractor shall not take advantage of any errors and/or omissions in this Contract. The Contractor must promptly notify the Division of any errors and/or omissions that are discovered.

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54. **ENTIRE AGREEMENT:** This Contract constitutes the entire agreement between the parties and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.  
 Revised August 8, 2016
5. **Lease Agreements:** *[If applicable, insert a statement about whether or not equipment lease agreement terms and conditions included in the Master Agreement have been approved for use by the Participating State and any restrictions or requirements for the use of the lease agreement language in the Master Agreement. If not applicable, mark Section 4 as "Reserved".]*
6. **Subcontractors:** All contactors, dealers, and resellers authorized in the State of [xxxxxxx], as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.
7. **Orders:** Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.

IN WITNESS, WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating Entity: State of Utah	Contractor: <i>Steril-Koni USA, Inc</i>
Signature: 	Signature: 
Name: <del>Kent Beers</del> <i>Chris Hughes</i>	Name: <i>Kellie Boehm</i>
Title: <del>Director/Chief Procurement Officer</del> <i>Assistant Director</i>	Title: <i>Administrative Sales Manager</i>
Date: 3/31/2017	Date: <i>March 31, 2017</i>

*[Additional signatures may be added if required by the Participating Entity]*

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For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator: Ted Fosket  
Telephone: 907 723-3360  
Email: [tfosket@naspovaluepoint.org](mailto:tfosket@naspovaluepoint.org)

***Please email fully executed PDF copy of this document  
to  
[PA@naspovaluepoint.org](mailto:PA@naspovaluepoint.org)  
to support documentation of participation and posting  
in appropriate data bases.***



**Invitation for Bid IFB 05316, Vehicle Lifts**  
**Exhibit C - Price Sheets**

	<b>Manufacturers</b>	<b>Stertil Koni</b>	
<b>ALI Certified Industrial Vehicle Lifts</b>			
<b>Item</b>	<b>Description</b>	<b>% Discount off MSRP</b>	<b>Meets Buy America/FTA (Y/N)</b>
<b>1</b>	<b>Two-Post Surface Mounted</b>		
	10,000 lb. Capacity	0%	No
	12,000 lb. Capacity	0%	No
	18,000 lb. Capacity	0%	No
	20,000 lb. Capacity	29%	No
	30,000 lb. Capacity	29%	No
<b>2</b>	<b>Multi-Post Runway</b>		
	12,000 lb. Capacity	0%	No
	18,000 lb. Capacity	0%	No
	50,000 lb. Capacity	29%	No
	70,000 lb. Capacity	29%	No
<b>3</b>	<b>Low/Mid Rise Frame Engaging</b>		
	6,000 lb. Capacity	0%	No
	7,000 lb. Capacity	0%	No
	10,000 lb. Capacity	0%	No
<b>4</b>	<b>Drive On Parallelogram</b>		
	12,000 lb. Capacity 20' Long	0%	No

30,000 lb. Capacity 26' Long	0%	No
50,000 lb. Capacity 26' Long	29%	Yes
70,000-75,000 lb. Capacity 30' Long	29%	Yes

<b>5</b>	<b>Scissors</b>		
	10,000 lb. Capacity 20' Long	0%	No
	12,000 lb. Capacity 26' Long	0%	No
	14,000 lb. Capacity 26' Long	0%	No
	25,000 lb. Capacity 30' Long	0%	No
	30,000 lb. Capacity 26' Long	0%	No
	50,000 lb. Capacity 26' Long	29%	Yes
	70,000 to 75,000 lb. Capacity 30' Long	29%	Yes

<b>6</b>	<b>Moveable Wheel Engaging (per pair) 12"-15" Forks</b>		
	26,000 lb. Capacity (for pair)	29%	Yes
	36,000 lb. Capacity (for pair)	29%	Yes
	44,000 to 48,000 lb. Capacity (for pair)	29%	Yes

<b>7</b>	<b>In Ground (front to rear entry)</b>		
	8,000 lb. Capacity	0%	No
	12,000 lb. Capacity	0%	No
	30,000 lb. Capacity	0%	No
	60,000 lb. Capacity	29%	Yes
	90,000 lb. Capacity	29%	Yes

<b>7.1</b>	<b>In Ground (side to side entry)</b>		
	10,000 lb. Capacity	0%	No
	12,000 lb. Capacity	0%	No
	15,000 lb. Capacity	0%	No

18,000 lb. Capacity	0%	No
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**Exhibit C - Price Sheets**

**GARAGE ASSOCIATED EQUIPMENT**

	<b>Manufacturers</b>	<b>Stertil Koni</b>	
<b>Item</b>	<b>Description</b>		
<b>1</b>	<b>Tire Changers</b>	<b>% Discount off MSRP Light Duty Equip.</b>	<b>% Discount off MSRP Heavy Duty Equip.</b>
	10"-26" Wheel	No Bid	No Bid
	10"-30" Wheel	No Bid	No Bid

<b>2</b>	<b>Wheel Balancers</b>		
	up to 175 lbs. (passenger vehicle wheel assembly)	No Bid	No Bid
	175 to 500 lbs. (heavy duty truck/bus wheel assembly)	No Bid	No Bid

<b>3</b>	<b>Free Standing Brake Lathes</b>		
	Light Duty Lathe w/ 1" Arbor (min. 150 lb. capable)	No Bid	No Bid
	Heavy Duty Lathe with 1-7/8" Arbor (min. 250 lb. capable)	No Bid	No Bid

**MASTER CONTRACT**

**No. 05316**

**VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

*For Use by Eligible Purchasers*

**By and Between**

**STATE OF WASHINGTON  
DEPARTMENT OF ENTERPRISE SERVICES**



**and**

**STERIL-KONI USA, INC.**

**Dated February 10, 2017**

**MASTER CONTRACT**

**No. 05316**

**VEHICLE LIFTS AND GARAGE ASSOCIATED EQUIPMENT**

This Master Contract ("Master Contract") is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency ("Enterprise Services"), NASPO ValuePoint and Contractor Secretary of State Legal Name Stertil-Koni USA, Inc. ("Contractor") and is dated as of February 10, 2017.

**RECITALS**

- A. Pursuant to Legislative direction codified in RCW chapter 39.26, Enterprise Services, on behalf of the State of Washington, is authorized to develop, solicit, and establish master contracts for goods and/or services for general use by Washington state agencies and certain other entities (eligible purchasers).
- B. On behalf of the State of Washington, Enterprise Services, as part of a competitive governmental procurement, issued Invitation for Bid No. 05316 dated November 18, 2016 regarding Vehicle Lifts and Garage Associated Equipment.
- C. Enterprise Services evaluated all responses to the Invitation for Bid and identified Contractor as an/the apparent successful bidder.
- D. Enterprise Services has determined that entering into this Master Contract will meet the identified needs and be in the best interest of the State of Washington.
- E. The purpose of this Master Contract is to enable eligible purchasers to purchase the goods and/or services as set forth herein.

**AGREEMENT**

**NOW THEREFORE**, in consideration of the mutual promises, covenants, and conditions set forth herein, the parties hereto hereby agree as follows:

- 1. **TERM.** The term of this Master Contract is 2 Years (24 months), commencing February 10, 2017 and ending February 10, 2019 with the option to extend the contracts for an additional 36 months. The Master Contract is subject to earlier termination.
- 2. **NASPO VALUEPOINT PARTICIPATING ENTITIES.** States, should they so choose, may award Participating Addendums in order to access contract pricing under this Master Contract. Each state would be responsible for completing and signing a separate Participating Addendum with any of the Contractors awarded under this Master Contract.
- 3. **ELIGIBLE PURCHASERS.** This Master Contract may be utilized by any of the following types of entities in the State of Washington ("Purchaser"):
  - 3.1. **WASHINGTON STATE AGENCIES.** This Master Contract may be utilized by:
    - Washington state agencies, departments, offices, divisions, boards, and commission; and

- Any the following institutions of higher education: state universities, regional universities, state college, community colleges, and technical colleges.
- 3.2. **MCUA PARTIES.** This Master Contract also may be utilized by any of the following types of entities that have executed a Master Contract Usage Agreement with Enterprise Services:
- Political subdivisions (e.g., counties, cities, school districts, public utility districts);
  - Federal governmental agencies or entities;
  - Public-benefit nonprofit corporations (i.e., § 501(c)(3) nonprofit corporations that receive federal, state, or local funding); and
  - Federally-recognized Indian Tribes located in the State of Washington.
4. **SCOPE – INCLUDED GOODS/SERVICES AND PRICE.**
- 4.1. **CONTRACT SCOPE.** Pursuant to this Master Contract, Contractor is authorized to sell only those goods and/or services set forth in *Exhibit A – Included Goods/Services* for the prices set forth in *Exhibit B – Prices and Contractor entire catalog*. Contractor shall not represent to any Purchaser under this Master Contract that Contractor has contractual authority to sell any goods and/or services beyond those set forth in *Exhibit A – Included Goods/Services*.
- 4.2. **STATE’S ABILITY TO MODIFY SCOPE OF MASTER CONTRACT.** Subject to mutual agreement between the parties, Enterprise Services reserves the right to modify the goods and/or services included in this Master Contract; *Provided*, however, that any such modification shall be effective only upon thirty (30) days advance written notice; and *Provided further*, that any such modification must be within the scope of this Master Contract.
- 4.3. **PRICE CEILING.** Although Contractor may offer lower prices to Purchasers, during the term of this Master Contract, Contractor guarantees to provide the Goods/Services at no greater than the prices set forth in *Exhibit B – Prices for Goods/Services* (subject to economic adjustment as set forth herein).
- 4.4. **MASTER CONTRACT INFORMATION.** Enterprise Services shall maintain and provide information regarding this Master Contract, including scope and pricing, to eligible Purchasers.
5. **CONTRACTOR REPRESENTATIONS AND WARRANTIES.** Contractor makes each of the following representations and warranties as of the effective date of this Master Contract and at the time any order is placed pursuant to this Master Contract. If, at the time of any such order, Contractor cannot make such representations and warranties, Contractor shall not process any orders and shall, within three (3) business days notify Enterprise Services, in writing, of such breach.
- 5.1. **QUALIFIED TO DO BUSINESS.** Contractor represents and warrants that it is in good standing and qualified to do business in the State of Washington, that it possesses and shall keep current all required licenses and/or approvals, and that it is current, in full compliance, and has paid all applicable taxes owed to the State of Washington.
- 5.2. **SUSPENSION & DEBARMENT.** Contractor represents and warrants that neither it nor its principals or affiliates presently are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any governmental contract by any governmental department or agency within the United States.
- 5.3. **QUALITY OF GOODS OR SERVICES.** Contractor represents and warrants that any goods and/or services sold pursuant to this Master Contract shall be merchantable, shall conform to this

Master Contract and Purchaser's Purchase Order, shall be fit and safe for the intended purposes, shall be free from defects in materials and workmanship, and shall be produced and delivered in full compliance with applicable law. Contractor further represents and warrants it has clear title to the goods and that the same shall be delivered free of liens and encumbrances and that the same do not infringe any third party patent. Upon breach of warranty, Contractor will repair or replace (at no charge to Purchaser) any goods and/or services whose nonconformance is discovered and made known to the Contractor. If, in Purchaser's judgment, repair or replacement is inadequate, or fails of its essential purpose, Contractor will refund the full amount of any payments that have been made. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.

- 5.4. **PROCUREMENT ETHICS & PROHIBITION ON GIFTS.** Contractor represents and warrants that it complies fully with all applicable procurement ethics restrictions including, but not limited to, restrictions against Contractor providing gifts or anything of economic value, directly or indirectly, to Purchasers' employees.
- 5.5. **WASHINGTON'S ELECTRONIC BUSINESS SOLUTION (WEBS).** Contractor represents and warrants that it is registered in Washington's Electronic Business Solution (WEBS), Washington's contract registration system and that, all of its information therein is current and accurate and that throughout the term of this Master Contract, Contractor shall maintain an accurate profile in WEBS.
- 5.6. **STATEWIDE PAYEE DESK.** Contractor represents and warrants that it is registered with the Statewide Payee Desk, which registration is a condition to payment.
- 5.7. **MASTER CONTRACT PROMOTION; ADVERTISING AND ENDORSEMENT.** Contractor represents and warrants that it shall use commercially reasonable efforts both to promote and market the use of this Master Contract with eligible Purchasers and to ensure that those entities that utilize this Master Contract are eligible Purchasers. Contractor understands and acknowledges that neither Enterprise Services nor Purchasers are endorsing Contractor's goods and/or services or suggesting that such goods and/or services are the best or only solution to their needs. Accordingly, Contractor represents and warrants that it shall make no reference to Enterprise Services, any Purchaser, or the State of Washington in any promotional material without the prior written consent of Enterprise Services.
- 5.8. **MASTER CONTRACT TRANSITION.** Contractor represents and warrants that, in the event this Master Contract or a similar contract, is transitioned to another contractor (e.g., Master Contract expiration or termination), Contractor shall use commercially reasonable efforts to assist Enterprise Services for a period of sixty (60) days to effectuate a smooth transition to another contractor to minimize disruption of service and/or costs to the State of Washington.

**6. USING THE MASTER CONTRACT – PURCHASES.**

6.1. **ORDERING REQUIREMENTS.** Eligible Purchasers shall order goods and/or services from this Master Contract, consistent with the terms hereof and by using any ordering mechanism agreeable both to Contractor and Purchaser but, at a minimum, including the use of a purchase order. When practicable, Contractor and Purchaser also shall use telephone orders, email orders, web-based orders, and similar procurement methods (collectively “Purchaser Order”). All order documents must reference the Master Contract number. Contractors shall use secure website to complete contract purchases. The features and functions of the secure website created for use by customers under this contract shall include but shall not be limited to the following:

- Access by standard web browsers
- Unique customer identifying log-in capabilities
- Product information such as unit of measure, item status, price description and photos
- Item status inquiry functionality that provides stock availability
- Order tracking
- Help functionality
- Reflect current catalog/price list and contract pricing
- Restricted to only those items that may be purchased under this contract by being identified as core items or are within the general product categories established by this contract
- Shall not include any items that are specifically excluded from this contract

6.2. **DELIVERY REQUIREMENTS.** Contractor must ensure that delivery of goods and/or services will be made as required by this Master Contract, the Purchase Order used by Purchasers, or as otherwise mutually agreed in writing between the Purchaser and Contractor. The following apply to all deliveries:

- (a) Contractor shall make all deliveries to the applicable delivery location specified in the Purchase Order. Such deliveries shall occur during Purchaser’s normal work hours and within the time period mutually agreed in writing between Purchaser and Contractor at the time of order placement.
- (b) Contractor shall ship all goods and/or services purchased pursuant to this Master Contract, freight charges prepaid by Contractor, F.O.B. destination, freight prepaid Purchaser’s specified destination with all transportation and handling charges included. Contractor shall bear all risk of loss, damage, or destruction of the goods and/or services ordered hereunder that occurs prior to delivery, except loss or damage attributable to Purchaser’s fault or negligence.
- (c) All packing lists, packages, instruction manuals, correspondence, shipping notices, shipping containers, and other written materials associated with this Master Contract shall be identified by the Master Contract number set forth on the cover of this Master Contract and the applicable Purchaser’s Purchase Order number. Packing lists shall be enclosed with each shipment and clearly identify all contents and any backorders.





Contractor Insert Here

- 6.3. **RECEIPT AND INSPECTION OF GOODS AND/OR SERVICES.** Goods and/or services purchased under this Master Contract are subject to Purchaser's reasonable inspection, testing, and approval at Purchaser's destination. Purchaser reserves the right to reject and refuse acceptance of goods and/or services that are not in accordance with this Master Contract and Purchaser's Purchase Order. Purchaser may charge Contractor for the cost of inspecting rejected goods. If there are any apparent defects in the goods and/or services at the time of delivery, Purchaser promptly will notify Contractor. At Purchaser's option, and without limiting any other rights, Purchaser may require Contractor to repair or replace, at Contractor's expense, any or all of the damaged goods and/or services or, at Purchaser's option, Purchaser may note any damage to the goods and/or services on the receiving report, decline acceptance, and deduct the cost of rejected goods and/or services from final payment. Payment for any goods under such Purchase Order shall not be deemed acceptance of the goods.
- 6.4. **ON SITE REQUIREMENTS.** While on Purchaser's premises, Contractor, its agents, employees, or subcontractors shall comply, in all respects, with Purchaser's physical, fire, access, or other security requirements.
- 7. INVOICING & PAYMENT.**
- 7.1. **CONTRACTOR INVOICE.** Contractor shall submit to Purchaser's designated invoicing contact properly itemized invoices. Such invoices shall itemize the following:
- (a) Master Contract No. 05316 or other state's PA reference number
  - (b) Contractor name, address, telephone number, and email address for billing issues (i.e., Contractor Customer Service Representative)
  - (c) Contractor's Federal Tax Identification Number
  - (d) Date(s) of delivery
  - (e) Invoice amount; and
  - (f) Payment terms, including any available prompt payment discounts.
- Contractor's invoices for payment shall reflect accurate Master Contract prices. Invoices will not be processed for payment until receipt of a complete invoice as specified herein.
- 7.2. **PAYMENT.** Payment is the sole responsibility of, and will be made by, the Purchaser. Payment is due within thirty (30) days of invoice. If Purchaser fails to make timely payment(s), Contractor may invoice Purchaser in the amount of one percent (1%) per month on the amount overdue or a minimum of \$1. Payment will not be considered late if a check or warrant is mailed within the time specified.
- 7.3. **OVERPAYMENTS.** Contractor promptly shall refund to Purchaser the full amount of any erroneous payment or overpayment. Such refunds shall occur within thirty (30) days of written notice to Contractor; *Provided*, however, that Purchaser shall have the right to elect to have either direct payments or written credit memos issued. If Contractor fails to make timely payment(s) or issuance of such credit memos, Purchaser may impose a one percent (1%) per month on the amount overdue thirty (30) days after notice to the Contractor.

- 7.4. **NO ADVANCE PAYMENT.** No advance payments shall be made for any products or services furnished by Contractor pursuant to this Master Contract.
- 7.5. **NO ADDITIONAL CHARGES.** Unless otherwise specified herein, Contractor shall not include or impose any additional charges including, but not limited to, charges for shipping, handling, or payment processing.
- 7.6. **TAXES/FEES.** Contractor promptly shall pay all applicable taxes on its operations and activities pertaining to this Master Contract. Failure to do so shall constitute breach of this Master Contract. Unless otherwise agreed, Purchaser shall pay applicable sales tax imposed by the State of Washington on purchased goods and/or services. Contractor, however, shall not make any charge for federal excise taxes and Purchaser agrees to furnish Contractor with an exemption certificate where appropriate.

**8. CONTRACT MANAGEMENT.**

- 8.1. **CONTRACT ADMINISTRATION & NOTICES.** Except for legal notices, the parties hereby designate the following contract administrators as the respective single points of contact for purposes of this Master Contract. Enterprise Services' contract administrator shall provide Master Contract oversight. Contractor's contract administrator shall be Contractor's principal contact for business activities under this Master Contract. The parties may change contractor administrators by written notice as set forth below.

Any notices required or desired shall be in writing and sent by U.S. mail, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

<p><b>Enterprise Services</b>          Attn: Philip Saunders          Washington Dept. of Enterprise Services          PO Box 41411          Olympia, WA 98504-1411          Tel: (360) 407-7962          Email: Philip.Saunders@des.wa.gov</p>	<p><b>Contractor</b>          Attn: Kellie Boehm          Stertil-Koni USA, Inc.          200 Log Canoe Circle          Stevensville, MD 21666          Tel: (410) 643-4434          Email: kellie@sterdil-koni.com</p>
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Notices shall be deemed effective upon the earlier of receipt, if mailed, or, if emailed, upon transmission to the designated email address of said addressee.

- 8.2. **CONTRACTOR CUSTOMER SERVICE REPRESENTATIVE.** Contractor shall designate a customer service representative (and inform Enterprise Services of the same) who shall be responsible for addressing Purchaser issues pertaining to this Master Contract.
- 8.3. **LEGAL NOTICES.** Any legal notices required or desired shall be in writing and delivered by U.S. certified mail, return receipt requested, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

<p><b>Enterprise Services</b>          Attn: Legal Services Manager          Washington Dept. of Enterprise Services</p>	<p><b>Contractor</b>          Attn: Jean DellAmore          Stertil-Koni USA, Inc.          200 Log Canoe Circle</p>
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PO Box 41411  
Olympia, WA 98504-1411  
Email: greg.tolbert@des.wa.gov

Stevensville, MD 21666  
Email: jean@steril-koni.com

Notices shall be deemed effective upon the earlier of receipt when delivered, or, if mailed, upon return receipt, or, if emailed, upon transmission to the designated email address of said addressee.

**9. CONTRACTOR SALES REPORTING; VENDOR MANAGEMENT FEE; & CONTRACTOR REPORTS.**

**9.1. MASTER CONTRACT SALES REPORTING.** Contractor shall report total Master Contract sales quarterly to Enterprise Services, as set forth below.

- (a) **Master Contract Sales Reporting System.** Contractor shall report quarterly Master Contract sales in Enterprise Services' Master Contract Sales Reporting System. Enterprise Services will provide Contractor with a login password and a vendor number. The password and vendor number will be provided to the Sales Reporting Representative(s) listed on Contractor's Bidder Profile.
- (b) **Data.** Each sales report must identify every authorized Purchaser by name as it is known to Enterprise Services and its total combined sales amount invoiced during the reporting period (i.e., sales of an entire agency or political subdivision, not its individual subsections). The "Miscellaneous" option may be used only with prior approval by Enterprise Services. Upon request, Contractor shall provide contact information for all authorized purchasers specified herein during the term of the Master Contract. If there are no Master Contract sales during the reporting period, Contractor must report zero sales.
- (c) **Due dates for Master Contract Sales Reporting.** Quarterly Master Contract Sales Reports must be submitted electronically by the following deadlines for all sales invoiced during the applicable calendar quarter:

<b>FOR CALENDAR QUARTER ENDING</b>	<b>MASTER CONTRACT SALES REPORT DUE</b>
March 31:	April 30
June 30:	July 31
September 30:	October 31
December 31:	January 31

**9.2. VENDOR MANAGEMENT FEE.** Contractor shall pay to Enterprise Services a vendor management fee ("VMF") of 0.74 percent on the purchase price for all Master Contract sales (the purchase price is the total invoice price less applicable sales tax).

- (a) The sum owed by Contractor to Enterprise Services as a result of the VMF is calculated as follows:

Amount owed to Enterprise Services = Total Master Contract sales invoiced (not including sales tax) x .0074.

- (b) The VMF must be rolled into Contractor's current pricing. The VMF must not be shown as a separate line item on any invoice unless specifically requested and approved by Enterprise Services.
- (c) Enterprise Services will invoice Contractor quarterly based on Master Contract sales reported by Contractor. Contractors are not to remit payment until they receive an invoice from Enterprise Services. Contractor's VMF payment to Enterprise Services must reference this Master Contract number, work request number (if applicable), the year and quarter for which the VMF is being remitted, and the Contractor's name as set forth in this Master Contract, if not already included on the face of the check.
- (d) Failure to accurately report total net sales, to submit a timely usage report, or remit timely payment of the VMF, may be cause for Master Contract termination or the exercise of other remedies provided by law. Without limiting any other available remedies, the Parties agree that Contractor's failure to remit to Enterprise Services timely payment of the VMF shall obligate Contractor to pay to Enterprise Services, to offset the administrative and transaction costs incurred by the State to identify, process, and collect such sums. the sum of \$200.00 or twenty-five percent (25%) of the outstanding amount, whichever is greater, or the maximum allowed by law, if less.
- (e) Enterprise Services reserves the right, upon thirty (30) days advance written notice, to increase, reduce, or eliminate the VMF for subsequent purchases, and reserves the right to renegotiate Master Contract pricing with Contractor when any subsequent adjustment of the VMF might justify a change in pricing.

9.3. ANNUAL MASTER CONTRACT SALES REPORT. Contractor shall provide to Enterprise Services a detailed annual Master Contract sales report. Such report shall include, at a minimum: Product description, part number or other Product identifier, per unit quantities sold, and Master Contract price. This report must be provided in an electronic format that can be read by MS Excel.

9.4. SMALL BUSINESS INCLUSION. Upon Request by Enterprise Services, Contractor shall provide, within thirty (30) days, an Affidavit of Amounts Paid. Such Affidavit of Amounts Paid either shall state, if applicable, that Contractor still maintains its MWBE certification or state that its subcontractor(s) still maintain(s) its/their MWBE certification(s) and specify the amounts paid to each certified MWBE subcontractor under this Master Contract. Contractor shall maintain records supporting the Affidavit of Amounts Paid in accordance with this Master Contract's records retention requirements.

#### 10. RECORDS RETENTION & AUDITS.

10.1. RECORDS RETENTION. Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Contract and orders placed by Purchasers under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall retain such records for a period of six (6) years following expiration or termination of this Master Contract or final payment for any order placed by a Purchaser against this Master Contract, whichever is later; *Provided*, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.

- 10.2. **AUDIT.** Enterprise Services reserves the right to audit, or have a designated third party audit, applicable records to ensure that Contractor has properly invoiced Purchasers and that Contractor has paid all applicable contract management fees. Accordingly, Contractor shall permit Enterprise Services, any Purchaser, and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Contract or orders placed by a Purchaser under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following expiration or termination of this Master Contract or final payment for any order placed by a Purchaser against this Master Contract, whichever is later; *Provided*, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.
- 10.3. **OVERPAYMENT OF PURCHASES OR UNDERPAYMENT OF FEES.** Without limiting any other remedy available to any Purchaser, Contractor shall (a) reimburse Purchasers for any overpayments inconsistent with the terms of this Master Contract or orders, at a rate of 125% of such overpayments, found as a result of the examination of the Contractor's records; and (b) reimburse Enterprise Services for any underpayment of fees, at a rate of 125% of such fees found as a result of the examination of the Contractor's records (e.g., if Contractor underpays the Vendor Management Fee by \$500, Contractor would be required to pay to Enterprise Services  $\$500 \times 1.25 = \$625$ ).

#### 11. INSURANCE.

- 11.1. **REQUIRED INSURANCE.** During the Term of this Master Contract, Contractor, at its expense, shall maintain in full force and effect the insurance coverages set forth in *Exhibit C – Insurance Requirements*.
- 11.2. **WORKERS COMPENSATION.** Contractor shall comply with applicable workers compensation statutes and regulations (e.g., RCW Title 51, Industrial Insurance). If Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, Enterprise Services may terminate this Master Contract. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from Contractor. In addition, Contractor waives its immunity under RCW Title 51 to the extent it is required to indemnify, defend, and hold harmless the State of Washington and its agencies, officials, agents, or employees.

#### 12. CLAIMS.

- 12.1. **ASSUMPTION OF RISKS; CLAIMS BETWEEN THE PARTIES.** Contractor assumes sole responsibility and all risks of personal injury or property damage to itself and its employees, agents, and Contractors in connection with Contractor's operations under this Master Contract. Enterprise Services has made no representations regarding any factor affecting Contractor's risks. Contractor shall pay for all damage to any Purchaser's property resulting directly or indirectly from its acts or omissions under this Master Contract, even if not attributable to negligence by Contractor or its agents.
- 12.2. **THIRD-PARTY CLAIMS; INDEMNITY.** To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless Enterprise Services and any Purchaser and their employees and agents from and against all claims, demands, judgments, assessments, damages, penalties, fines, costs, liabilities or losses including, without limitation, sums paid in settlement of claims,

attorneys' fees, consultant fees, and expert fees (collectively "claims") arising from any act or omission of Contractor or its successors, agents, and subcontractors under this Master Contract, except claims caused solely by Enterprise Services or any Purchasers' negligence. Contractor shall take all steps needed to keep Purchaser's property free of liens arising from Contractor's activities, and promptly obtain or bond the release of any such liens that may be filed.

**13. DISPUTE RESOLUTION.** The parties shall cooperate to resolve any dispute pertaining to this Master Contract efficiently, as timely as practicable, and at the lowest possible level with authority to resolve such dispute. If, however, a dispute persists and cannot be resolved, it may be escalated within each organization. In such situation, upon notice by either party, each party, within five (5) business days shall reduce its description of the dispute to writing and deliver it to the other party. The receiving party then shall have three (3) business days to review and respond in writing. In the event that the parties cannot then agree on a resolution of the dispute, the parties shall schedule a conference between the respective senior manager of each organization to attempt to resolve the dispute. In the event the parties cannot agree, either party may resort to court to resolve the dispute.

**14. SUSPENSION & TERMINATION; REMEDIES.**

**14.1. SUSPENSION & TERMINATION FOR DEFAULT.** Enterprise Services may suspend Contractor's operations under this Master Contract immediately by written cure notice of any default. Suspension shall continue until the default is remedied to Enterprise Services' reasonable satisfaction; *Provided*, however, that, if after thirty (30) days from such a suspension notice, Contractor remains in default, Enterprise Services may terminate Contractor's rights under this Master Contract. All of Contractor's obligations to Enterprise Services and Purchasers survive termination of Contractor's rights under this Master Contract, until such obligations have been fulfilled.

**14.2. DEFAULT.** Each of the following events shall constitute default of this Master Contract by Contractor:

- (a) Contractor fails to perform or comply with any of the terms or conditions of this Master Contract including, but not limited to, Contractor's obligation to pay contract management fees when due;
- (b) Contractor breaches any representation or warranty provided herein; or
- (c) Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary.

**14.3. REMEDIES FOR DEFAULT.**

- (a) Enterprise Services' rights to suspend and terminate Contractor's rights under this Master Contract are in addition to all other available remedies.
- (b) In the event of termination for default, Enterprise Services may exercise any remedy provided by law including, without limitation, the right to procure for all Purchasers replacement goods and/or services. In such event, Contractor shall be liable to Enterprise Services for damages as authorized by law including, but not limited to, any price difference between the Master Contract price and the replacement or cover price as well as any administrative and/or transaction costs directly related to such replacement procurement – e.g., the cost of the competitive procurement.

14.4. **LIMITATION ON DAMAGES.** Notwithstanding any provision to the contrary, the parties agree that in no event shall any party or Purchaser be liable to the other for exemplary or punitive damages.

14.5. **GOVERNMENTAL TERMINATION.**

(a) **Termination for Withdrawal of Authority.** Enterprise Services may suspend or terminate this Master Contract if, during the term hereof, Enterprise Services' procurement authority is withdrawn, reduced, or limited such that Enterprise Services, in its judgment, would lack authority to enter into this Master Contract; *Provided*, however, that such suspension or termination for withdrawal of authority shall only be effective upon twenty (20) days prior written notice; and *Provided further*, that such suspension or termination for withdrawal of authority shall not relieve any Purchaser from payment for goods and/or services already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such suspension or termination for withdrawal of authority, neither Enterprise Services nor any Purchaser shall have any obligation or liability to Contractor.

(b) **Termination for Convenience.** Enterprise Services, for convenience, may terminate this Master Contract; *Provided*, however, that such termination for convenience must, in Enterprise Services' judgment, be in the best interest of the State of Washington; and *Provided further*, that such termination for convenience shall only be effective upon sixty (60) days prior written notice; and *Provided further*, that such termination for convenience shall not relieve any Purchaser from payment for goods and/or services already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such termination for convenience, neither Enterprise Services nor any Purchaser shall have any obligation or liability to Contractor.

14.6. **TERMINATION PROCEDURE.** Regardless of basis, in the event of suspension or termination (in full or in part), the parties shall cooperate to ensure an orderly and efficient suspension or termination. Accordingly, Contractor shall deliver to Purchasers all goods and/or services that are complete (or with approval from Enterprise Services, substantially complete) and Purchasers shall inspect, accept, and pay for the same in accordance with this Master Contract and the applicable Purchase Order. Unless directed by Enterprise Services to the contrary, Contractor shall not process any orders after notice of suspension or termination inconsistent therewith.

**15. GENERAL PROVISIONS.**

15.1. **TIME IS OF THE ESSENCE.** Time is of the essence for each and every provision of this Master Contract.

15.2. **COMPLIANCE WITH LAW.** Contractor shall comply with all applicable law.

15.3. **INTEGRATED AGREEMENT.** This Master Contract constitutes the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any kind not set forth herein.

15.4. **AMENDMENT OR MODIFICATION.** Except as set forth herein, this Master Contract may not be amended or modified except in writing and signed by a duly authorized representative of each party hereto.

- 15.5. **AUTHORITY.** Each party to this Master Contract, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Master Contract and that its execution, delivery, and performance of this Master Contract has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
- 15.6. **NO AGENCY.** The parties agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this Master Contract. Neither party is an agent of the other party nor authorized to obligate it.
- 15.7. **ASSIGNMENTS.** Contractor may not assign its rights under this Master Contract without Enterprise Services' prior written consent and Enterprise Services may consider any attempted assignment without such consent to be void; *Provided*, however, that, if Contractor provides written notice to Enterprise Services within thirty (30) days, Contractor may assign its rights under this Master Contract in full to any parent, subsidiary, or affiliate of Contractor that controls or is controlled by or under common control with Contractor, is merged or consolidated with Contractor, or purchases a majority or controlling interest in the ownership or assets of Contractor. Unless otherwise agreed, Contractor guarantees prompt performance of all obligations under this Master Contract notwithstanding any prior assignment of its rights.
- 15.8. **BINDING EFFECT; SUCCESSORS & ASSIGNS.** This Master Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- 15.9. **PUBLIC INFORMATION.** This Master Contract and all related documents are subject to public disclosure as required by Washington's Public Records Act, RCW chapter 42.56.
- 15.10. **ASSIGNMENT OF ANTITRUST RIGHTS REGARDING PURCHASED GOODS/SERVICES.** Contractor irrevocably assigns to Enterprise Services, on behalf of the State of Washington, any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws in connection with any goods and/or services provided in Washington for the purpose of carrying out the Contractor's obligations under this Master Contract, including, at Enterprise Services' option, the right to control any such litigation on such claim for relief or cause of action.
- 15.11. **FEDERAL FUNDS.** To the extent that any Purchaser uses federal funds to purchase goods and/or services pursuant to this Master Contract, such Purchaser shall specify, with its order, any applicable requirement or certification that must be satisfied by Contractor at the time the order is placed or upon delivery.
- 15.12. **SEVERABILITY.** If any provision of this Master Contract is held to be invalid or unenforceable, such provision shall not affect or invalidate the remainder of this Master Contract, and to this end the provisions of this Master Contract are declared to be severable. If such invalidity becomes known or apparent to the parties, the parties agree to negotiate promptly in good faith in an attempt to amend such provision as nearly as possible to be consistent with the intent of this Master Contract.
- 15.13. **WAIVER.** Failure of either party to insist upon the strict performance of any of the terms and conditions hereof, or failure to exercise any rights or remedies provided herein or by law, or to notify the other party in the event of breach, shall not release the other party of any of its obligations under this Master Contract, nor shall any purported oral modification or rescission of this Master Contract by either party operate as a waiver of any of the terms hereof. No



waiver by either party of any breach, default, or violation of any term, warranty, representation, contract, covenant, right, condition, or provision hereof shall constitute waiver of any subsequent breach, default, or violation of the same or other term, warranty, representation, contract, covenant, right, condition, or provision.

- 15.14. **SURVIVAL.** All representations, warranties, covenants, agreements, and indemnities set forth in or otherwise made pursuant to this Master Contract shall survive and remain in effect following the expiration or termination of this Master Contract, *Provided*, however, that nothing herein is intended to extend the survival beyond any applicable statute of limitations periods.
- 15.15. **GOVERNING LAW.** The validity, construction, performance, and enforcement of this Master Contract shall be governed by and construed in accordance with the laws of the State of Washington, without regard to its choice of law rules.
- 15.16. **JURISDICTION & VENUE.** In the event that any action is brought to enforce any provision of this Master Contract, the parties agree to submit to exclusive in personam jurisdiction in Thurston County Superior Court for the State of Washington and agree that in any such action venue shall lie exclusively at Olympia, Washington.
- 15.17. **ATTORNEYS' FEES.** Should any legal action or proceeding be commenced by either party in order to enforce this Master Contract or any provision hereof, or in connection with any alleged dispute, breach, default, or misrepresentation in connection with any provision herein contained, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs incurred in connection with such action or proceeding, including costs of pursuing or defending any legal action, including, without limitation, any appeal, discovery, or negotiation and preparation of settlement arrangements, in addition to such other relief as may be granted.
- 15.18. **FAIR CONSTRUCTION & INTERPRETATION.** The provisions of this Master Contract shall be construed as a whole according to their common meaning and not strictly for or against any party and consistent with the provisions contained herein in order to achieve the objectives and purposes of this Master Contract. Each party hereto and its counsel has reviewed and revised this Master Contract and agrees that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be construed in the interpretation of this Master Contract. Each term and provision of this Master Contract to be performed by either party shall be construed to be both a covenant and a condition.
- 15.19. **FURTHER ASSURANCES.** In addition to the actions specifically mentioned in this Master Contract, the parties shall each do whatever may reasonably be necessary to accomplish the transactions contemplated in this Master Contract including, without limitation, executing any additional documents reasonably necessary to effectuate the provisions and purposes of this Master Contract.
- 15.20. **EXHIBITS.** All exhibits referred to herein are deemed to be incorporated in this Master Contract in their entirety.
- 15.21. **CAPTIONS & HEADINGS.** The captions and headings in this Master Contract are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Master Contract nor the meaning of any provisions hereof.
- 15.22. **ELECTRONIC SIGNATURES.** A signed copy of this Master Contract or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to

have the same legal effect as delivery of an original executed copy of this Master Contract or such other ancillary agreement for all purposes.

15.23. COUNTERPARTS. This Master Contract may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Master Contract at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Master Contract.

EXECUTED as of the date and year first above written.

STATE OF WASHINGTON  
Department of Enterprise Services

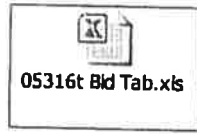
STERTIL-KONI USA, INC.  
a Corporation

By: *Philip Saunders*  
Philip Saunders

By: *Jean DellAmore*  
Jean DellAmore  
President

Its: Contract Specialist *Procurement*  
*Supervisor*  
*2/10/17*

INCLUDED GOODS/SERVICES



**PRICES FOR GOODS/SERVICES**  
<http://naspo.steril-koni.com/>

1. **CATALOG PRICING AVAILABILITY.** Contractor shall provide Catalog/price lists in both hard copy list and electronic (web-based).
2. **ONLINE CATALOG AND ELECTRONIC ORDERING SYSTEM.** Contractor shall make available a secure website to complete contract purchases. The features and functions of the secure website created for use by customers under this contract shall include but shall not be limited to the following:
  - Access by standard web browsers
  - Unique customer identifying log-in capabilities
  - Product information such as unit of measure, item status, price description and photos
  - Item status inquiry functionality that provides stock availability
  - Order tracking
  - Help functionality
  - Reflect current catalog / price list and contract pricing
  - Restricted to only those items that may be purchased under this contract by being identified as core items or are within the general product categories establish by this contract
  - Shall not include any items that are specifically excluded from this contract.
3. **NEW TECHNOLOGY AND NEW PRODUCTS.** Should Contractors want to offer new technology lifts that are not specifically called for on a Vehicle Lift or Garage Associated Equipment category, contractors must submit to the Contract Administrator for review. All additional items must meet contract specifications, terms and conditions. For each additional item, fully identify power, modifications, payload, option restrictions and added delivery time. After award, new, improved, or updated products may become available. Bidders will be allowed to request to substitute items, within their awarded categories. Substituted items must beat contract specifications, terms and conditions. Substitutions and pricing will be at the sole discretion of the Contract Administrator and through written mutual agreement.
4. Several NASPO ValuePoint Participating Entities currently maintain separate SciQuest eMarketplaces, these Participating Entities do enable certain NASPO ValuePoint Cooperative Contracts. In the event one of these entities elects to use this NASPO ValuePoint Cooperative Contract (available through the eMarket Center) but publish to their own eMarketplace, the Contractor agrees to work in good faith with the entity and NASPO ValuePoint to implement the catalog. NASPO ValuePoint does not anticipate that this will require substantial additional efforts by the Contractor; however, the supplier agrees to take commercially reasonable efforts to enable such separate SciQuest catalogs.

## INSURANCE REQUIREMENTS

1. **INSURANCE OBLIGATION.** During the Term of this Master Contract, Contractor obtain and maintain in full force and effect, at Contractor's sole expense, the following insurance coverages:
  - a. **COMMERCIAL GENERAL LIABILITY INSURANCE.** Commercial General Liability Insurance (and, if necessary, commercial umbrella liability insurance) covering Bodily Injury and Property Damage on an 'occurrence form' in the amount of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate. This coverage shall include Contractual Liability insurance for the indemnity provided under this Master Contract.

The limits of all insurance required to be provided by Contractor shall be no less than the minimum amounts specified. Coverage in the amounts of these minimum limits, however, shall not be construed to relieve Contractor from liability in excess of such limits.

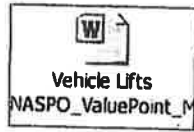
A cross-liability clause or separation of insured condition shall be included in all general liability, professional liability, pollution, and errors and omissions policies required by this Master Contract.

2. **INSURANCE CARRIER RATING.** Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable to the State of Washington's Office of Risk Management. Insurance coverage shall be provided by companies authorized to do business within the State of Washington and rated A- Class VII or better in the most recently published edition of Best's Insurance Rating. Enterprise Services reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
3. **ADDITIONAL INSURED.** Except for Works' Compensation, Professional Liability, Personal Automobile Liability, and Pollution Liability Insurance, all required insurance shall include the State of Washington and all authorized Purchasers (and their agents, officers, and employees) as an Additional Insureds evidenced by copy of the Additional Insured Endorsement attached to the Certificate of Insurance on such insurance policies.
4. **CERTIFICATE OF INSURANCE.** Upon request by Enterprise Services, Contractor shall furnish to Enterprise Services, as evidence of the insurance coverage required by this Master Contract, a certificate of insurance satisfactory to Enterprise Services that insurance, in the above-stated kinds and minimum amounts, has been secured. A renewal certificate shall be delivered to Enterprise Services no less than ten (10) days prior to coverage expiration. Failure to provide proof of insurance, as required, will result in contract cancellation. All policies and certificates of insurance shall include the Master Contract number stated on the cover of this Master Contract.
5. **PRIMARY COVERAGE.** Contractor's insurance shall apply as primary and shall not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above including, at a minimum, the State of Washington and/or any Purchaser. All insurance or self-insurance of the State of Washington and/or Purchasers shall be excess of any insurance provided by Contractor or subcontractors.

6. **SUBCONTRACTORS.** Contractor shall include all subcontractors as insureds under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each subcontractor. Each subcontractor must comply fully with all insurance requirements stated herein. Failure of any subcontractor to comply with insurance requirements does not limit Contractor's liability or responsibility.
7. **WAIVER OF SUBROGATION.** Contractor waives all rights of subrogation against the State of Washington and any Purchaser for the recovery of damages to the extent such damages are or would be covered by the insurance specified herein.
8. **NOTICE OF CHANGE OR CANCELLATION.** There shall be no cancellation, material change, exhaustion of aggregate limits, or intent not to renew insurance coverage, either in whole or in part, without at least sixty (60) days prior written Legal Notice by Contractor to Enterprise Services. Failure to provide such notice, as required, shall constitute default by Contractor. Any such written notice shall include the Master Contract number stated on the cover of this Master Contract.

EXHIBIT D

**NASPO VALUEPOINT TERMS AND CONDITIONS**



**EXHIBIT E**

**INTENT TO PARTICIPATE & STATE SPECIFIC TERMS AND CONDITIONS**







## MEMORANDUM TO THE BOARD

**TO:** Utah Transit Authority Board of Trustees  
**THROUGH:** Carolyn Gonot, Executive Director  
**FROM:** Kim S. Ulibarri, Chief People Officer  
**PRESENTER(S):** Kim S. Ulibarri, Chief People Officer and Alisha Garrett, Dir Culture & Talent

**BOARD MEETING DATE:** October 7, 2020

<b>SUBJECT:</b>	<b>Learning Management System (SumTotal)</b>
<b>AGENDA ITEM TYPE:</b>	<b>Expense Contract</b>
<b>RECOMMENDATION:</b>	Approve award and authorize the Executive Director to execute the contract and associated disbursements with Sum Total in the amount of \$345,250.
<b>BACKGROUND:</b>	UTA's current LMS has a poor user interface, does not provide for adequate reporting, making it difficult for management to track employee training progress, and has administrative limitations, requiring an excessive amount of manual input to correct individual training records.
<b>DISCUSSION:</b>	<p>UTA established a cross-functional team to identify UTA's true LMS needs which were put out for RFP in 2020. An expanded cross functional team, including representation from all UTA training groups, evaluated each submitted proposal. Three finalists were extensively tested to ensure they would meet UTA's required specifications. From this competitive process, SumTotal was selected as the most responsive bidder.</p> <p>SumTotal LMS will enable a greatly improved learning environment. SumTotal LMS was able to effectively respond to the extensive and all-encompassing specifications included in the RFP. UTA conducted a thorough evaluation which included hands-on testing to verify the software could deliver the functions and capability it purported to have. In evaluating other LMS vendors SumTotal performed significantly above its competitors in meetings UTA's needs, specifically related to on the job training which is vital for our front-line training programs, which will be growing in demand as we bring on additional apprenticeship programs.</p> <p>The total contract amount with Sum total is \$345,250 which includes subscription fees of \$50,000 each for 3 base contract years and 2 option years. The contract also includes \$95,250 in startup, training, and system conversion costs.</p>
<b>CONTRACT SUMMARY:</b>	<b>Contractor Name:</b> SumTotal

	<b>Contract Number:</b> 20-03225BM	<b>Existing Contract:</b>
	<b>Base Contract Effective Dates:</b> 9/23/2020-10/22/2023 with 2 one- year extension options	<b>Extended Contract Dates:</b>
	<b>Amendment Amount:</b>	<b>New/Total Amount Contract Value:</b> \$345,250
	<b>Procurement Method:</b> RFP	<b>Funding Sources:</b> Local
<b>ALTERNATIVES:</b>	UTA could seek another vendor. There are two options for doing so. One would be to use the same contract the State of Utah Dept. of Transportation uses for an LMS. The other would be to again put out an RFP, as the second and third place vendors in the RFP evaluation had significant limitations. Meanwhile, UTA would have to continue with its current inadequate LMS.	
<b>FISCAL IMPACT:</b>	The cost for these services is included in the 2020 budget and programmed in the proposed 2021 budget in department 6400.	
<b>ATTACHMENTS:</b>	1) 20-03225BM contract between UTA & SumTotal	

Learning Management System

This Professional Services and License Agreement is entered into and made effective as of the date of last signature below (the “Effective Date”) by and between UTAH TRANSIT AUTHORITY, a public transit district organized under the laws of the State of Utah (“UTA”), and SUMTOTAL SYSTEMS LLC a LIMITED LIABILITY COMPANY (“Consultant”).

**RECITALS**

- A. UTA desires to hire professional services and/or the purchase of SumTotal Product(s) for UTA’s Learning Management System.
- B. UTA issued Request for Proposal Package Number 20-03325BM (“RFP”) encouraging interested parties to submit proposals to perform the services described in the RFP.
- C. Upon evaluation of the proposals submitted in response to the RFP, UTA selected Consultant as the preferred entity with whom to negotiate a contract to perform the Work.
- D. Consultant is qualified and willing to perform the Work as set forth in any applicable Order Form and/or Statement of Work.

**AGREEMENT**

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

**1. SERVICES TO BE PROVIDED**

- a. Consultant shall perform all Work as set forth in any applicable Order Form (Exhibit D) and/or Statement of Work. Except for items (if any) which this Contract specifically states will be UTA-provided, Consultant shall furnish all the labor, material and incidentals necessary for the Work.
- b. Consultant shall perform all Work under this Contract in a professional manner, using at least that standard of care, skill and judgment which can reasonably be expected from similarly situated professionals.
- c. All Work shall conform to generally accepted standards in the transit industry. Consultant shall perform all Work in compliance with applicable laws.
- d. Consultant shall furnish only qualified personnel and materials necessary for the performance of the Work.
- e. When performing Work on UTA property, Consultant shall comply with all UTA work site rules including, without limitation, those related to safety and environmental protection.

**2. MANAGEMENT OF WORK**

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

### **3. PROGRESS OF WORK**

- a. Consultant shall prosecute the Work in a diligent and continuous manner and in accordance with all applicable notice to proceed, critical path schedule and guaranteed completion date requirements set forth in (or developed and agreed by the parties in accordance with) any applicable Order Form and/or Statement of Work.
- b. Consultant shall conduct regular meetings to update UTA's Project Manager regarding the progress of the Work including, but not limited to, any unusual conditions or critical path schedule items that could affect or delay the Work. Such meetings shall be held at intervals mutually agreed to between the parties.
- c. Consultant shall deliver monthly progress reports and provide all Contract submittals and other deliverables as specified in any applicable Order Form and/or Statement of Work.
- d. Any drawing or other submittal reviews to be performed by UTA in accordance with the any applicable Order Form and/or Statement of Work are for the sole benefit of UTA, and shall not relieve Consultant of its responsibility to comply with the Contract requirements.
- e. UTA will have the right to inspect, monitor and review any Work performed by Consultant hereunder as deemed necessary by UTA to verify that such Work conforms to the Contract requirements. Any such inspection, monitoring and review performed by UTA is for the sole benefit of UTA, and shall not relieve Consultant of its responsibility to comply with the Contract requirements.

### **4. PERIOD OF PERFORMANCE**

Three year term with Two One year Options. The Options shall be exercised in accordance with the applicable Order Form.

### **5. COMPENSATION**

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

## **6. INCORPORATED DOCUMENTS**

a. The following documents hereinafter listed in chronological order, with most recent document taking precedence over any conflicting provisions contained in prior documents (where applicable), are hereby incorporated into the Contract by reference and made a part hereof:

1. The terms and conditions of this Professional Services and License Agreement (including any exhibits and attachments hereto).

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

## **7. ORDER OF PRECEDENCE**

The Order of Precedence for this contract is as follows:

- UTA Contract including terms and conditions without exhibits
- Contractor added exhibits and attachments
- UTA Solicitation Terms

## **8. INVOICING PROCEDURES**

- a. Consultant shall submit invoices to UTA's Project Manager for processing and payment in accordance with Exhibit D. If Exhibit D does not specify invoice instructions, then Consultant shall invoice UTA after completion of all Work and final acceptance thereof by UTA. Invoices shall be provided in the form specified by UTA. Reasonable supporting documentation demonstrating Consultant's entitlement to the requested payment must be submitted with each invoice.
- b. UTA shall have the right to disapprove (and withhold from payment) specific line items of each invoice to address non-conforming Work or invoicing deficiencies. Approval by UTA shall not be unreasonably withheld. UTA shall have the right to offset from payment amounts reasonably reflecting the value of any claim which UTA has against Consultant under this Contract. Payment for all invoice amounts not specifically disapproved by UTA shall be provided to Consultant within thirty (30) calendar days of invoice date.

## **9. USE OF SUBCONTRACTORS**

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

## **12. KEY PERSONNEL**

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

### **13. SUSPENSION OF WORK**

- a.** UTA may, at any time, by written order to Consultant, require Consultant to suspend, delay, or interrupt all or any part of the Work called for by this Contract. Any such order shall be specifically identified as a "Suspension of Work Order" issued pursuant to this Article. Upon receipt of such an order, Consultant shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of further costs allocable to the Work covered by the order during the period of Work stoppage.
- b.** If a Suspension of Work Order issued under this Article is canceled, the parties shall enter into a new agreement regarding the Work.
- c.** If a Suspension of Work Order is not canceled within sixty (60) days and the Work covered by such order is terminated by UTA or the parties cannot agree to resumption of the Work, reasonable costs incurred as a result of the Suspension of Work Order shall be the responsibility of UTA.
- d.** If the Suspension of Work causes an increase in Consultant's cost or time to perform the Work, the increase shall be considered in the new agreement.

### **14. TERMINATION**

**a. FOR CONVENIENCE:** UTA shall have the right to terminate the Contract by providing thirty (30) days written notice to Contractor. If the Contract is terminated for convenience, UTA shall pay Contractor: (i) any committed Subscription Fees for the then current annual Subscription Term; (ii) for any services per an applicable Statement of Work; and (iii) an equitable amount to reflect costs incurred (including Contract close-out and subcontractor termination costs that cannot be reasonably mitigated) and profit on work-in-progress as of to the effective date of the termination notice. UTA shall not be responsible for anticipated profits based on the terminated portion of the Contract. Contractor shall promptly submit a termination claim to UTA. If Contractor has any property in its possession belonging to UTA, Contractor will account for the same, and dispose of it in the manner UTA directs. For the avoidance of doubt, a termination pursuant to this paragraph shall not entitle UTA to a refund of any fees previously paid to Contractor, and any invoices raised by the contractor to the Court that remain unpaid must still be paid to Contractor.

### **15. PUBLIC INFORMATION.**

Contractor acknowledges that the Contract and related materials (invoices, orders, etc.) will be public documents under the Utah Government Records Access and Management Act (GRAMA). Contractor's response to the solicitation for the Contract will also be a public document subject to GRAMA, except for legitimate trade secrets, so long as such trade secrets were properly designated in accordance with terms of the solicitation. For the avoidance of doubt, SumTotal's software is protected by copyright law and thus not subject to public disclosure.

### **16. INSURANCE REQUIREMENTS**

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

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

1. Commercial General Liability – Occurrence Form

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

- General Aggregate \$4,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Each Occurrence \$2,000,000

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

2. Automobile Liability

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

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

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

3. Worker's Compensation and Employers' Liability

Workers' Compensation Statutory

Employers' Liability

Each Accident \$100,000

Disease – Each Employee \$100,000

Disease – Policy Limit \$500,000

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

4. Professional Liability (Errors and Omissions Liability)

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

Each Claim \$1,000,000

Annual Aggregate \$2,000,000

a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning at the time work under this Contract is completed.

B. ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the Utah Transit Authority is named as an additional insured, the Utah Transit Authority shall be an additional insured to the full limits of liability purchased by the Consultant. Insurance limits indicated in this agreement are minimum limits. Larger limits may be indicated after the consultant's assessment of the exposure for this contract; for their own protection and the protection of UTA.
  2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
- C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the Utah Transit Authority, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to (Utah Transit Authority agency Representative's Name & Address). Such notice shall not be required for policy modifications or cancellations related to Contractor's annual insurance renewal process.
- D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or authorized to do business in the State and with an "A.M. Best" rating of not less than A-VII. The Utah Transit Authority in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.
- E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the Utah Transit Authority with certificates of insurance (on standard ACORD form) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.
- All certificates and any required endorsements are to be sent to [insurancecerts@rideuta.com](mailto:insurancecerts@rideuta.com) and received and approved by the Utah Transit Authority before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.
- All certificates required by this Contract shall be emailed directly to Utah Transit Authority's insurance email address at [insurancecerts@rideuta.com](mailto:insurancecerts@rideuta.com). The Utah Transit Authority project/contract number and project description shall be noted on the certificate of insurance. The Utah Transit Authority reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE UTAH TRANSIT AUTHORITY'S CLAIMS AND INSURANCE DEPARTMENT.**
- F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insureds under its policies or subcontractors shall maintain separate insurance as determined by the Contractor, however, subcontractor's limits of liability shall not be less than \$1,000,000 per occurrence / \$2,000,000 aggregate. Sub-contractors maintaining separate insurance shall name Utah Transit Authority as an additional insured on their policy. Blanket additional insured endorsements are not acceptable from sub-contractors. Utah Transit Authority must be scheduled as an additional insured on any sub-contractor policies.
- G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by Claims and Insurance Department or the Office of General Counsel, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.



**17. INDEPENDENT CONTRACTOR**

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

**18. PROHIBITED INTEREST**

No member, officer, agent, or employee of UTA during his or her tenure or for one year thereafter shall have any interest, direct or indirect, including prospective employment by Consultant in this Contract or the proceeds thereof without specific written authorization by UTA.

**19. CLAIMS/DISPUTE RESOLUTION**

a. "Claim" means any disputes between UTA and the Contractor arising out of or relating to the Contract Documents including any disputed claims for Contract adjustments that cannot be resolved in accordance with the Change Order negotiation process set forth in Article 6. Claims must be made by written notice. The responsibility to substantiate claims rests with the party making the claim.

b. Unless otherwise directed by UTA in writing, Contractor shall proceed diligently with performance of the Work pending final resolution of a Claim, including litigation. UTA shall continue to pay any undisputed payments related to such Claim.

c. The parties shall attempt to informally resolve all claims, counterclaims and other disputes through the escalation process described below. No party may bring a legal action to enforce any term of this Contract without first having exhausted such process.

d. The time schedule for escalation of disputes, including disputed requests for change order, shall be as follows:

<b>Level of Authority</b>	<b>Time Limit</b>
UTA's Project Manager/Contractor's Customer Success Manager	Five business days
UTA's Sr. Supply Chain Manager/Contractor's VP of Customer Success	Five business days
UTA's Chief Financial Officer/Contractor's Senior Vice President of Sales	Five business days

Unless otherwise directed by UTA's Project Manager, Contractor shall diligently continue performance under this Contract while matters in dispute are being resolved.

If the dispute cannot be resolved informally in accordance with the escalation procedures set forth above, than either party may commence formal mediation under the Juris Arbitration and Mediation (JAMS) process using a mutually agreed upon JAMS mediator. If resolution does not occur through Mediation, then legal action may be commenced in accordance the venue and governing law provisions of this contract. Notwithstanding any provision herein to the contrary, the provisions of this section 19 shall not be interpreted to prevent a party from seeking injunctive relief from a court of competent jurisdiction.

**20. GOVERNING LAW**

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

**21. ASSIGNMENT OF CONTRACT**

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

**22. NONWAIVER**

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

**23. NOTICES OR DEMANDS**

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

If to UTA:  
Utah Transit Authority  
ATTN: Brian Motes  
669 West 200 South

with a required copy to:  
Utah Transit Authority  
ATTN: Legal Counsel  
669 West 200 South

If to Consultant:  
SumTotal Systems LLC  
300 Innovative Way, Suite 201 Nashua, NH 03062

- b. Any such notice shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the party to which the notice is directed; provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice. Either party may change the address at which such party desires to receive written notice by providing written notice of such change to any other party.
- c. Notwithstanding Section 23.1, the parties may, through mutual agreement, develop alternative communication protocols to address change notices, requests for information and similar categories of communications. Communications provided pursuant to such agreed means shall be recognized as valid notices under this Contract.

**24. CONTRACT ADMINISTRATOR**

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

**25. COSTS AND ATTORNEYS FEES**

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

## **26. ANTIDISCRIMINATION**

1. Employment Practices. Offeror hereby declares that it is and will remain fully compliant with the provisions of the Utah Anti-discrimination Act (UTAH CODE §§ 34A-5-101 TO 34A-5-108) and the equivalent anti-discrimination laws of its State of incorporation headquarters location. Under the Act, an employer may not refuse to hire, promote, discharge, demote, or terminate a person, or to retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against a person otherwise qualified, because of: race, color, sex, pregnancy, childbirth, or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; disability; sexual orientation; or gender identity.

2. Goods and Services Provided to UTA. In addition to avoiding discriminatory employment practices as described above, Offeror also declares that all goods and services it provides to UTA are useable and accessible by individuals with disabilities as described in Title II of the American with Disabilities Act and also Section III (H) of UTA Policy 6.1.1 which states that programs, services, and facilities procured by UTA will be accessible to and useable by individuals with disabilities. Supporting services defined or required sale-by-sale by the customer, including but not limited to special training, Webex training sessions, and unique user guides or other documentation, all of which should be presumed not to meet section 508 criteria unless otherwise stated specifically for each applicable section 508 criterion (for example, as a separate VPAT), by Offeror, at time of sale. Sweeping contractual requirements and statements regarding compliance with section 508 are satisfied by this disclosure per 29 U.S.C. § 794d(a)(4), and 48 C.F.R. §§ 39.203(b)(2) and 39.204(e)(2)(ii).

## **27. NO THIRD PARTY BENEFICIARY**

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

## **28. SEVERABILITY**

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

## **29. ENTIRE AGREEMENT**

This Contract shall constitute the entire agreement and understanding of the parties with respect to the subject matter hereof, and shall supersede all offers, negotiations and other agreements with respect thereto. Should there be any conflicting terms or provisions in the Contract, the terms and conditions of the Contract shall prevail.

## **36. AMENDMENTS**

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

## **37. COUNTERPARTS**

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

## **38. SURVIVAL**

Provisions of this Contract intended by their nature and content to survive termination of this Contract shall so survive

including, but not limited to, Articles 5, 7, 8, 10, 14, 15, 17, 18, 19, 20, 23, 29 and 30.

IN WITNESS WHEREOF, the parties have made and executed this Contract as of the day, month and year of the last signature contained below.

**UTAH TRANSIT AUTHORITY:**

**SUMTOTAL SYSTEMS LLC**

By \_\_\_\_\_

Name Carolyn Gonot

Title Executive Director

Date

By \_\_\_\_\_

Name Kim Ulibarri

Title Chief People Officer

Date

By \_\_\_\_\_

Michael Bell

UTA Legal Counsel

Utah Asst. Attorney General

Date

By Mike Manix  
Mike Manix (Sep 19, 2020 09:32 EDT)

Name Mike Manix

Title Director of Revenue

Date Sep 19, 2020

## EXHIBIT A

### SUBSCRIPTION SERVICES AGREEMENT

This Subscription Service Agreement ("Agreement") is entered into and made effective as of 23 October 2020 (the **Effective Date**), by and between Utah Transit Authority (**Customer**), with an address for purposes of this Agreement at 669 West 200 South, Salt Lake City, Utah 84101 and SumTotal Systems LLC (**SumTotal**), with an address for purposes of this Agreement at 300 Innovative Way Suite 201 Nashua, NH 03062 United States. Collectively, SumTotal and Customer may be referred to as the "Parties" or in the singular as "Party". This Subscription Service Agreement, along with any subsequent amendments or Order Forms, is referred to as the "Agreement."

#### GENERAL TERMS AND CONDITIONS

##### 1. Definitions

1.1 **Affiliate** means, with respect to a party, any entity which directly or indirectly controls, is controlled by, or is under common control with such party. "Control," for purposes of this definition, means ownership or control, directly or indirectly, of more than 50% of the voting interests of the subject entity.

1.2 **Committed Subscription Service Fee** means the committed fee paid by Customer for the access to the Service during the Subscription Term.

1.3 **Customer Data** means any data, information or material provided or submitted to the Service by the Customer in the course of using the Service.

1.4 **Customer Equipment** means Customer's computer hardware, software and network infrastructure used to access the Service.

1.5 **Customer Error Incident** means any Service unavailability related to Customer's applications, Customer Data, or Customer's equipment, or the acts or omissions of any user of the Service.

1.6 **Derivative Work** means a work of authorship based on one or more pre-existing works, such as a revision, modification, abridgement, condensation, expansion, or any other form in which the pre-existing work may be recast, transformed, or adapted.

1.7 **Emergency Maintenance** means downtime of the Service due to the application of urgent patches or fixes, or other urgent maintenance, recommended by SumTotal's vendors, that is performed outside of Scheduled Maintenance. SumTotal will make commercially reasonable efforts to give Customer prior notice of any Emergency Maintenance. Where practical, SumTotal will make commercially reasonable efforts to perform Emergency Maintenance during Customer's off-peak business hours.

1.8 **Force Majeure** has the meaning as set forth in Section 16.6 of this Agreement.

1.9 **Initial Subscription Term** means the period of time set forth in the Order Form attached to this Agreement as Exhibit C.

1.10 **Intellectual Property Rights** means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world.

1.11 **Login** means the username and password assigned by Customer for each User.

1.12 **Malicious Code** means any computer viruses, worms or any other software that is intended to damage or alter a computer system or data.

1.13 **Order Form** means Company's standard order form, as included herein as Exhibit C, that (i) specifies the Service applications or modules provided to Customer; (ii) references this Agreement; and (iii) is signed by authorized representatives of both Parties and deemed incorporated into the Agreement.

1.14 **Overage** means the number of Users or Registrations above the Committed Number of Users or Committed Number of Registrations, as applicable, as set forth in the Order Form included herein as Exhibit C and as amended in any subsequent Order Form.

1.15 **Professional Services** means the services which may be further discussed and described through a Statement of Work, pursuant to Exhibit A of this Agreement.

1.16 **Professional Services Fee** means the fee paid by Customer to Company for the additional Professional Services as provided in Exhibit A and the applicable Statement of Work.

1.17 **Recovery Point Objective (RPO)** means the maximum transactional user activity that could be lost should the primary facility be destroyed.

1.18 **Recovery Time Objective (RTO)** means the maximum amount of time to resume access to Customer's environment at SumTotal's alternate data center facility.

- 1.19 **Published Documentation** means the information which SumTotal routinely provides regarding the Software and Service to customers via SumTotal's website.
- 1.20 **Registration** means any form of training, (such as, but not limited to, documents, online courses, and/or instructor-led courses) registration event (either self-directed or by a third-party) that does not have a corresponding Registration Cancellation event within the same calendar month. Each training event registered via a combined structure such as a curriculum will be counted as an individual Registration.
- 1.21 **Registration Cancellation** means the action taken by Customer whereby either (i) the Registration is deleted or (ii) the Registration is replaced.
- 1.22 **Registration Model** means the subscription model whereby Customer has purchased a committed number of Registrations during the Subscription Term.
- 1.23 **Scheduled Maintenance** means any maintenance performed during SumTotal's then current standard maintenance windows and any other maintenance of which Customer is given at least forty-eight (48) hours advance notice. SumTotal may perform maintenance on some or all of the Service in order to upgrade hardware or software that operates or supports the Service, implement security measures, or address any other issues it deems appropriate for the continued operation of the Service.
- 1.24 **Service** means the hosted, on-demand, web-based service offered by SumTotal, including the Software Modules, and updates thereto from time to time and accessible via <http://www.sumtotalsystems.com> or another designated web site or IP address.
- 1.25 **Service Deliverables** means the items to be delivered to Customer in connection with any implementation or Professional Services SumTotal performs pursuant to Exhibit A, such as consulting reports, on-site training, integration work or modifications to the Software Modules, but does not include the Software Modules.
- 1.26 **Software** means the object code version of the Company software or Third Party Products, made available through the Service under this Agreement.
- 1.27 **Software Modules** means the unmodified and fully compiled executable code for the Software identified in the Order Form(s) attached hereto.
- 1.28 **Subscription Term(s)** means the period(s) during which a specified number of Users are licensed to use the Service.
- 1.29 **SumTotal Technology** means all of SumTotal's proprietary technology (including Software Modules, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to Customer by SumTotal in providing the Service.
- 1.30 **Third Party Products** means any products and/or services provided by SumTotal to Customer where SumTotal is a reseller of a third party.
- 1.31 **Transaction** means, with respect to the use of the Expense Management Software, the submission and approval of an expense report using the Expense Management Software.
- 1.32 **Unique Logins Model** means the subscription model whereby Customer has purchased a committed number of unique users who authenticate into the system one or more times in a calendar month.
- 1.33 **User** means any individual with an active account, for whom talent management data, (e.g. learning data, goals, appraisals, succession plans, etc.) or employment, payroll or expense related data exists in the database maintained by SumTotal for the benefit of the Customer. An active account means the account has been accessed or data in the account has been updated or was inputted during the relevant Term, and in the case of the Learning Management applications and their related modules, any individual for whom there is a user login account permitting such individual to access and use the Service is considered to constitute an individual with active account. Exceptions:
- (A) For purposes of the Learning Management Applications, data may be retained for persons who are flagged as inactive in the system for historical reporting purposes only and such persons are not counted as Users and are not allowed to login to the system or access any system functionality.
  - (B) For purposes of the Talent Management Applications, a person who only accesses the system to provide feedback in a 360 assessment and/or act as an external Job Applicant and does not have any other data stored in the system is not counted as a Named User.
- 1.34 **User Model** means the subscription model whereby Customer has purchased a committed number of Users to access the Service during the Subscription Term.

## 2. Service.

2.1 SumTotal will provide Customer with use of the Service, including a browser interface and login data, in addition to encryption, transmission, access to, and storage of Customer Data. As part of the Service, SumTotal shall provide the Maintenance Services set forth in Exhibit B and Professional Services mutually agreed upon via Statements of Work pursuant to Exhibit A. SumTotal may at its sole discretion enhance the Service from time to time, at no cost or expense to Customer, provided any such enhancement will not, in any case, reduce the performance or functionality of the existing Service prior to such enhancement. SumTotal will set up a website for Customer

from which Customer can access the Service and will notify Customer of the URL for such SumTotal website. SumTotal will install the Service, and SumTotal will host the Service and any Service Deliverables used in conjunction with the Service. SaaS customers' installations will be initiated upon signing. Hosted Subscription customers' installations will be initiated upon Customer's request to do so. An email request sent to SumTotal's project manager assigned to Customer is acceptable to initiate the installation and configuration of Customer's Service.

2.2 If Customer has purchased access to the Enterprise Learning or Talent Management Service via a hosted subscription model, as evidenced by the Order Form attached hereto, Customer:

- (i) Can decide when and if to upgrade to the next major version release (currently there are four major version releases per year, which add new features and/or improvements to the application UI). However, Customer must upgrade at least once every twelve months to the then-current major version release. The twelve month interval is measured between production go-live dates,
- (ii) If Customer does not upgrade to the then-current major version release for more than twelve months, Customer will automatically be invoiced for the following fee until the upgrade occurs: 3% of Customer's annual hosting or hosting subscription fees for each additional month in which Customer is not in compliance with (i) above
- (iii) Patches and hotfixes made available for the major version release Customer is running are mandatory, and will be installed at no charge to Customer. Customer will receive notices of all patches and/or hotfixes, and as well as all applicable release notes to inform you as to what is being fixed. If a patch or hotfix can be applied with no service interruption it will be automatically applied. If downtime is required for a patch or hotfix, Customer will receive fourteen days' notice, which notice may be provided via telephone or email.
- (iv) Major version upgrades will require a professional services engagement. Customer must enter into such engagement at least ninety days in advance of Customer's desired upgrade date. Major version releases can be installed at any time Monday-Friday. A charge of \$2,900.00 will apply to any weekend installation.

2.3 If Customer has purchased access to the Service via the Software as a Service ("SaaS") model, as evidenced by the Order Form attached hereto:

- (i) Customer may not customize the Service,
- (ii) SumTotal shall provide installation of any maintenance releases and/or new version releases as part of the Service at no extra charge to Customer. The timing of such installations will be at SumTotal's discretion.

2.4 Support of Production Environment versus Non-Production Environment. Any production environment outage is treated as a high priority event for which SumTotal will engage in commercially reasonable recovery efforts to resolve. Non-production environments are supported 5 days x 10 hours per day basis (limited to weekdays), and any outage shall be recovered on a reasonable effort basis.

2.5 SumTotal hereby grants Customer a non-exclusive, non-transferable, worldwide right to access and use the Service, subject to the terms and conditions of this Agreement. Customer may only (a) access the Software Modules as stated in this Agreement; and (b) permit such access by Users. In addition, at Customer's own expense and without SumTotal's assistance, Customer may access the Service once every five (5) minutes for purposes of monitoring its availability, performance or functionality, but may not monitor the Service for any other benchmarking or competitive purposes.

2.6 Each User must have a Login with a unique user identification. SumTotal reserves the right to require Customer to alter any password if SumTotal believes it is no longer secure. Customer shall not permit more than one person to use each Login to access the Service or otherwise share login accounts, user identifications or passwords. Customer shall not deactivate a named individual's access to the Service and assign such access to another named individual, except when the named individual is no longer employed by Customer. Customer is responsible for all access to the Service and activities conducted by individuals accessing the Service using the Logins, including such individual's compliance with the terms herein.

2.7 Storage Allowance: SumTotal will provide data storage as stated in the Initial Order Form. If Customer exceeds the storage allocated in the Initial Order Form, Customer will purchase additional Storage for the time period of such overage for such storage. The storage fees include daily backups and off-site archiving of stored data, as provided in Section 6.2. Note that there is no charge for storage used by application executable files, server logs, SQL transaction logs, Temp DB, DSU/TMU files, FTP storage, and backup copies).

2.8 File Transfers. All files transferred between Customer and SumTotal will be encrypted via PGP/GPG in order to be encrypted 'at rest', and transferred via Secure FTP to encrypt in transit.

2.9 Security. SumTotal will maintain the Service at a reputable hosting facility, where it is subject to commercially reasonable security precautions to prevent unauthorized access to the Service. Maintenance of Customer Data and procedures relating to such maintenance shall comply with industry standards (i.e. encryption of sensitive data), and all applicable federal, state, and local statutes and regulations. However, Customer acknowledges that, notwithstanding such security precautions, use of or connection to the Internet provides the opportunity for unauthorized third parties to circumvent such precautions and illegally gain access to the Service.

2.10 If the User Model and the Registrations Model are both used, Customer must manage all Registration Model Users accessing the Service on a per Registration basis in a separate domain hierarchy from all other Users under the root domain. All Users who are not managed in the separate domain hierarchy for Registration Model Users will be counted as Users under the User Model.

2.11 Security Audit. SumTotal shall provide Customer with SumTotal's SSAE 16 audit certification upon written request by Customer. Customer may conduct an audit of the hosting services, including a data center tour and review of data center policies and procedures, no



more often than once in any 12-month period. A fee of \$250 per hour will be charged for the labor involved in support of such audits, up to a maximum of \$1,000.00. Notwithstanding the foregoing, should an audit require more than a data center tour and review of data center policies and procedures, the \$1,000.00 maximum shall not apply.

2.12 Customer Supplied Scripts. Customer may provide scripts to be executed on Customer Data. However all Customer-supplied scripts must be tested and certified by SumTotal as a paid for engagement.

### 3. **Restrictions.**

3.1 Customer shall use the Service solely for Customer's business purposes, in compliance with applicable law, and shall not: (i) sublicense, lease, or make the Service available to any unauthorized third party; (ii) send or store infringing, unlawful, defamatory or libelous material; (iii) send or store any Malicious Code; (iv) access the Service by any means other than the Login, or otherwise attempt to gain unauthorized access to, or disrupt the integrity or performance of, the Service or the data contained therein; (v) modify, copy or create Derivative Works based on the Service; (vi) reverse engineer the Service; (vii) access the Service for the purpose of building, selling, marketing or otherwise, a competitive product or service or copying its features or user interface; or (viii) remove the copyright, trademark, or any other proprietary rights or notices included within the Service or Service Deliverables and on and in the documentation and training materials. All rights not expressly granted to Customer herein are expressly reserved by SumTotal. Customer may not access the Service if Customer is a direct competitor of SumTotal.

### 4. **Responsibilities.**

#### 4.1 Customer's Responsibilities.

(i) Customer agrees to abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with Customer's use of the Service, including those related to data privacy, international communications and the transmission of technical or personal data. Customer shall: (i) notify SumTotal immediately of any unauthorized use of any Login or any other known or suspected breach of security; (ii) report to SumTotal immediately and use reasonable efforts to stop immediately any copying or distribution of content that is known or suspected by Customer to be infringing or unlawful; and (iii) not impersonate another SumTotal customer or provide false identity information to gain access to or use the Service.

(ii) Customer shall be responsible for any costs in connection with establishment and maintenance of Internet connectivity to the Service, including (without limitation) telephone, communications, Internet service provider costs, computer hardware, modem, fees charged by third parties, insurance, Internet access software, or any other costs incurred by Customer in accessing the Service.

#### 4.2 SumTotal's Responsibilities.

SumTotal agrees to abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with SumTotal's Service, including those related to data privacy, international communications and the transmission of technical or personal data. SumTotal shall: (i) notify Customer immediately of any unauthorized use of any Login or any other known or suspected breach of security; (ii) report to Customer immediately and use reasonable efforts to stop immediately any copying or distribution of content that is known or suspected by SumTotal to be infringing or unlawful.

(i) In connection with the Service, SumTotal will provide and maintain all third party software and hardware (such as servers) reasonably necessary to operate the Service.

(ii) SumTotal will provide and maintain vendor supported versions of all necessary hardware and software, telecommunications hardware and software, security software and other software that is reasonably necessary to operate and maintain the Service.

(iii) SumTotal's standard disaster recovery service is included in Customer's service fees. Should a disaster be declared SumTotal will make every reasonable effort to resume access to Customer's environment at SumTotal's alternate data center facility within SumTotal's recovery time objective (RTO) of 2 weeks. The standard service includes a Recovery Point Objective (RPO) of 1 week. The Committed Subscription Service Fee will continue to apply while the alternative site is being utilized. There is no recovery testing as part of the standard service.

### 5. **Service Availability.**

5.1 Service Availability. SumTotal shall make reasonable efforts to provide production environment service availability of 99.8% measured on a monthly basis ("Service Availability") not including (a) Scheduled Maintenance, (b) Customer Error Incidents, (c) Emergency Maintenance, and (d) Force Majeure. For this purpose, and to enable SumTotal to troubleshoot problems as necessary, SumTotal uses an administrator account on each Customer environment. If the Service fails to respond to SumTotal's automated testing, then SumTotal uses manual testing to confirm such failure. Service Availability is calculated as a percentage by dividing the number of minutes the Service is available during the applicable month divided by the number of total minutes in the month, excluding in all cases the aggregate of the number of minutes the Service is unavailable due to Scheduled Maintenance, Customer Error Incidents, Emergency Maintenance, and Force Majeure events. An interruption in the Service shall not be considered a breach of SumTotal's obligations hereunder if: (i) SumTotal promptly takes all reasonable steps to restore the Service or (ii) the interruption in Service results from a Force Majeure event.

5.2 If Customer engages in activity that is not a legitimate use of the product, such as security penetration tests, stress tests, spamming activity, or other activity for which the product is not intended and it affects other SumTotal customers, SumTotal may shut down Customer's service until such activity ceases, with such service interruption not being counted against the above availability measure.

## **6. Account Information and Data.**

6.1 SumTotal does not own any Customer Data. Customer, not SumTotal, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data, and SumTotal shall not be responsible or liable for the deletion, correction, destruction, damage, or loss of any data that result from Customer's actions. SumTotal is not responsible for restoring lost data or damage to Customer Data that results from Customer's actions. Customer hereby grants to SumTotal a non-exclusive, fully-paid and royalty-free license to reproduce, distribute, perform, display and otherwise use the Customer Data solely to provide the Service to Customer. Customer represents and warrants that: (i) Customer owns or otherwise has the right to grant the license set forth in this section for the Customer Data, and (ii) the Customer Data does not violate the privacy rights, publicity rights, copyright rights, or other rights of any person or entity. SumTotal has the right (but not the obligation) to review any Customer Data and delete any Customer Data that in the sole judgment of SumTotal violates this Agreement; is prohibited content; is illegal; violates the rights, harms, or threatens the safety of any user or any other person; or creates liability for SumTotal, its Suppliers, or any user upon 30 days' written notice specifying the alleged default or violation if the default or violation is not remedied within the notice period.

6.2 SumTotal will provide backups to the Service as follows: (i) an incremental backup will be conducted every day; (ii) a full weekly backup will be conducted every week; and (iii) a full backup will be conducted every month, which also serves as the full weekly backup for that week. At the end of each week, the backup tapes are sent off site and stored as follows: one month for daily backups and six months for weekly backups. SumTotal will use commercially reasonable efforts to perform restorations to the Service in the event of a service failure. SumTotal will respond to Customer requests for restoring files within one business day. SumTotal reserves the right to withhold backups of Customer Data without notice for any Customer breach, including, without limitation, Customer's non-payment.

## **7. Intellectual Property Ownership.**

7.1 SumTotal alone (and its Suppliers, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the SumTotal Technology and the Service and Customer hereby assigns to SumTotal any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Customer relating to the Service or the SumTotal Technology. SumTotal may use such submissions as it deems appropriate in its sole discretion. This Agreement is not a sale and does not convey to Customer any rights of ownership in or related to the Service, the SumTotal Technology or the Intellectual Property Rights owned by SumTotal and its Suppliers. The SumTotal name, the SumTotal logo, and the product names associated with the Service are trademarks of SumTotal or its Suppliers, and no right or license is granted to use them. Customer will not accrue any residual rights to the SumTotal Technology or Service, including any rights to the Intellectual Property Rights in connection therewith.

## **8. Charges and Fees.**

8.1 Customer agrees to provide SumTotal with complete and accurate billing and contact information. This information includes Customer's legal company name, street address, e-mail address, and name and telephone number of an authorized billing contact.

8.2 SumTotal will invoice Customer the Committed Subscription Service Fee(s) for the Initial Subscription Term as set forth in the Order Form attached hereto as Exhibit C. Other fees associated with Customer's actual usage will be charged in arrears. Fees for other services will be charged on an as-quoted basis. All fees and invoices, unless otherwise stated in an applicable Order Form, amendment or Statement of Work, shall be in the currency specified on the Initial Order Form attached hereunder as Exhibit C. Except as set forth herein, all payment obligations are non-cancelable and all amounts paid are nonrefundable. Customer is responsible for paying for all User and Registration licenses ordered for the entire Subscription Term, whether or not such User and/or Registration licenses are actively used. Customer shall pay for all amounts due and owing for the Service, including Committed Subscription Service Fee for each Subscription Term, Overage fees, or any other fee or charge associated with Customer's use of the Service.

8.3 At any time, Customer may add Users and/or Registrations via an executed Order Form or amendment between the Parties. Added Users and/or Registrations will be coterminous with the preexisting Subscription Term (either Initial Subscription Term or renewal term). If Customer adds Users or Registrations, then Customer's Committed Number of Users and/or Committed Number of Registrations, as applicable, shall be increased for the remainder of such Subscription Term in which Customer increases the number of committed Users and/or Registrations and any additional Subscription Terms if Customer renews the Service. Customer will pay for any increase in Users or Registrations at the time of execution of the Order Form or amendment setting forth the additional Users or Registrations. Customer may only reduce the number of Users and Registrations set forth in the Order Form attached to this Agreement as Exhibit C, as applicable, at the end of each Subscription Term via an executed Order Form or amendment between the Parties. SumTotal's fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and Customer shall be responsible for payment of all such taxes, levies, or duties, excluding only United States (federal or state) taxes based solely on SumTotal's income.

8.4 In addition to any other rights granted to SumTotal herein, SumTotal reserves the right to suspend or terminate this Agreement and Customer's access to the Service if Customer's account becomes delinquent (falls into arrears by sixty (60) days). Delinquent invoices (accounts in arrears) are subject to interest of 1.0% per month on any outstanding balance, or the maximum permitted by law, whichever is less, plus all expenses of collection. Customer will continue to be charged for committed Users and/or Registrations during any period of suspension. Furthermore, SumTotal shall, at its discretion, have the right to offset any amounts due to Customer by amounts owed by Customer to SumTotal.

8.5 SumTotal reserves the right to impose a \$200 reconnection fee in the event any suspension to the Service under this Agreement is lifted by SumTotal as a result of Customer's cure.

8.6 SumTotal shall have the right to verify the number of Users and/or Registrations under this Agreement at the end of each month. At the end of each quarter following the Effective Date, if there are usage Overages during the previous quarter, SumTotal will submit a quarterly usage report to Customer summarizing the number of Users or Registrations, as applicable, on the Software during the previous ninety (90) day period ("Usage Report"). Along with the Usage Report, SumTotal shall submit to Customer an invoice for any Overage

owed to SumTotal based upon the Usage Report. For Workforce Management, Expense, or Payroll/HR OnDemand, such overages shall be calculated and invoiced monthly. Once an Overage is detected, SumTotal may increase the total number of Users with access to the Service to include those Users added via the Overage, in which case the new total number of Users (the "Adjusted User Number") shall form the basis for the number of authorized Users with access to the Service for all remaining Payment Periods in the then current Subscription Term, as well as any renewal terms thereafter, unless otherwise mutually agreed upon in writing between the Parties. Customer will pay SumTotal for all Users added via such an Overage adjustment.

## 9. Payment Terms.

9.1 Unless otherwise stated in the relevant Order Form or amendment, all invoices shall be due and payable net 45 days from date of invoice. Customer must promptly notify SumTotal of any invoice disputes and both parties shall work towards a mutually agreeable resolution. SumTotal has the right to either suspend or terminate Customer's access to the Service. If SumTotal receives a cancellation notice from Customer, Customer will be obligated to pay the balance properly due and owing on Customer's account, including the remainder, if any, of the then-current Annual Committed Subscription Term. Customer agrees that SumTotal may bill Customer for any such unpaid fees.

## 10. Term and Termination.

10.1 The term of this Agreement (the "Term") will commence on the Effective Date and will expire on the furthestmost End Date set forth in an Order Form issued under this Agreement, unless earlier terminated pursuant to this Section 10.

10.2 If either Party commits a material breach of this Agreement, and such breach is not cured within thirty (30) days after receipt of written notice by the other Party, such Party shall be in default, and the non-breaching Party may terminate this Agreement. Failure to make timely payments is a material breach of this Agreement. In the event of a default by SumTotal under this section, SumTotal shall refund, on a prorated basis, any fees for the Service which Customer has pre-paid but have not used. In the event of a default by Customer under this section, Customer shall pay for all amounts due and owing for the Service, including Committed Subscription Service Fee for each Subscription Term, Overage fees, or any other fee or charge associated with Customer's use of the Service.

10.3 Sections titled "Customer's Responsibilities," "Term and Termination", "Intellectual Property Ownership," "Limitation of Liability," "Indemnification," "Confidential Information", and "Miscellaneous" inclusive, shall survive any termination of this Agreement. Upon any termination of this Agreement, Customer must cease any further use of the Service and destroy any copies of associated Software Modules within Customer's possession and control. Upon termination of the Agreement (except for SumTotal's breach of the Agreement as set forth in the paragraph above), SumTotal shall retain all amounts paid by Customer under the Agreement, including (without limitation) all fees and expenses rendered to SumTotal by Customer in anticipation of services hereunder. Any obligation of Customer's which accrued prior to termination, including, without limitation, any payment due and fees owed but not yet paid, shall survive the termination of this Agreement.

10.4 Return of Customer Data. In the event this Agreement is terminated or expires, SumTotal will upon request provide an electronic copy of customer course content via FTP at no charge. Customer can also obtain the content of many database tables using the data extract inherent in the application's reporting tool, however if Customer requires additional tables they may 1) request within 30 days of termination or expiration that SumTotal make available to Customer via sFTP a full export of all tables containing customer data for a fee of \$2200, 2) request custom extracts of specific data be provided, with the fee based on the complexity of the customer requirements, and pursuant to a PS engagement.. After such 30-day period, SumTotal shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, delete all Customer Data in its systems or otherwise in its possession or under its control. SumTotal will not provide extracts of Customer data unless all amounts due and owing for the Service, including Committed Subscription Service Fee for each Subscription Term, Setup Services Fee, Professional Services Fee, Overage fees, or any other fee or charge associated with Customer's use of the Service have been paid by Customer.

10.5 Effect of Bankruptcy. In the event that either party becomes the subject of any voluntary or involuntary bankruptcy proceeding, liquidation, dissolution, receivership or attachment or make a general assignment for the benefit of creditors, amounts that have been paid to SumTotal are hereby deemed earned upon receipt and are SumTotal's sole property, irrespective of whether goods or services, have been delivered to UTA. These amounts shall be applied, in whole or in part, in satisfaction of any obligations owed by Customer to SumTotal under this Agreement or any other agreement between Customer and SumTotal.

## 11. Representations and Warranties.

11.1 Representations and Warranties. Each Party represents and warrants that it has the legal power and authority to enter into this Agreement.

11.2 Limited Warranty on Service. SumTotal represents and warrants, for the ninety (90) day period following the Service Start Date of this Agreement that the Service shall materially perform as represented in SumTotal's Published Documentation describing the Service. Customer's exclusive remedy for a breach of this warranty is the correction of any material reproducible impairment to the features and functionality in the Service so that it materially conforms to this warranty. If SumTotal determines that is unable to correct the Service after using commercially reasonable efforts to do so, then SumTotal's sole and exclusive obligation shall be to refund a prorated amount of the Committed Subscription Service Fee which has been actually paid for such Service; provided that Customer discontinues all use of the Service and certifies that it has done such. Except as set forth in Section 11.3 below, no other fees shall be refunded to Customer under this Agreement.

11.3 Limited Warranty on Service Deliverables. For a period of ninety 90 days following the delivery of a Service Deliverable ("Service Deliverable Warranty Period"), SumTotal warrants that the Service Deliverable, as provided by SumTotal during the Service Deliverable Warranty Period, will in all material respects conform to and perform in accordance with the mutually-agreed specifications, Customer must report any breach of the foregoing warranty to us in writing pursuant to Section 16.5 of this Agreement within the Service Deliverable

Warranty Period. Customer's exclusive remedy for a breach of this warranty is the correction of any material reproducible nonconformity in the Service Deliverable so that it conforms to this warranty. If SumTotal determines that SumTotal is unable to correct the Service Deliverable after using commercially reasonable efforts to do so, then SumTotal's sole and exclusive obligation shall be to refund the fees actually paid for such Service Deliverable provided that Customer discontinues all use of the Service Deliverable and certifies that Customer has done such and have destroyed all copies in Customer's control.

## 12. Disclaimer of Warranties.

EXCEPT AS PROVIDED IN SECTION 11 ABOVE, CUSTOMER UNDERSTANDS AND AGREES THAT THE SERVICE AND CONTENT ARE PROVIDED "AS IS" AND SUMTOTAL, ITS AFFILIATES, SUPPLIERS, LICENSORS, AND RESELLERS EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. SUMTOTAL, ITS AFFILIATES, SUPPLIERS, LICENSORS, AND RESELLERS MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY THAT (i) THE SERVICE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR (ii) THE SERVICE OR THE SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. SUMTOTAL CANNOT AND DOES NOT GUARANTY THE PRIVACY, SECURITY OR AUTHENTICITY OF ANY INFORMATION SO TRANSMITTED OVER OR STORED IN ANY SYSTEM CONNECTED TO THE INTERNET. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY MAY LAST. CUSTOMER MAY HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION.

## 13. Limitation of Liability.

IN NO EVENT SHALL SUMTOTAL'S AGGREGATE CUMULATIVE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED 3X THE FEES PAID DURING THE PRECEDING 12-MONTH PERIOD BY CUSTOMER TO SUMTOTAL UNDER THIS AGREEMENT.

IN NO EVENT SHALL SUMTOTAL BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OR INACCURACY OF DATA, LOSS OF PROFITS OR REVENUE, BUSINESS INTERRUPTION, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, HOWEVER ARISING, EVEN IF SUMTOTAL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 14. Indemnification.

14.1 Claims Related to the Service or Service Deliverable. Provided that Customer complies with the procedures set forth in Section 14.5 and subject to Section 14.2, SumTotal will, at SumTotal's expense, defend and/or settle any claim, suit or proceeding brought by a third party against Customer or Customer's officers, directors, employees, agents and affiliates alleging that the Service or a Service Deliverable, as provided by SumTotal, infringes any copyright, trademark, trade secret or patent issued as of the date of this Agreement. In addition, SumTotal will pay any judgment awarded against Customer or any settlement amount agreed to by SumTotal and, subject to Section 14.5, any authorized expenses incurred by Customer.

14.2 Exclusions. SumTotal will have no obligation under Section 14.1 with respect to any claim of infringement arising out of or based upon Customer Data used with or incorporated in the Service.

14.3 Injunction. If Customer's use of the Service or a Service Deliverable is or is likely to be enjoined, SumTotal may, without limiting SumTotal's indemnity obligations hereunder, procure the right for Customer to continue to use the Service or a Service Deliverable or modify the Service or a Service Deliverable in a functionally equivalent manner so as to avoid such injunction. If the foregoing options are not available on commercially reasonable terms and conditions, SumTotal may immediately terminate the Agreement and refund to Customer a prorated amount of prepaid fees for the subscription service actually paid by Customer for the unused portion of the then-current Subscription Term. If the foregoing options are not available on commercially reasonable terms and conditions as it relates to a Service Deliverable, SumTotal will refund to Customer the fees paid for such Service Deliverable less a credit for use based on straight line depreciation applied on a quarterly basis over five years from the date of initial delivery of the a Service Deliverable.

14.4 Claims Related to Customer Data. Provided that SumTotal complies with the procedures set forth in Section 14.6, Customer will, at Customer's expense, defend and/or settle any claim, suit or proceeding brought by a third party against SumTotal or SumTotal's officers, directors, employees, agents and affiliates and arising out of or related to Customer Data or any breaches of Section 3.1. In addition, Customer will pay any judgment awarded against SumTotal or any settlement amount agreed to by Customer and, subject to Section 14.6, any authorized expenses incurred by SumTotal.

14.5 Claims Related to Violation of Applicable Law. Provided that each party complies with the procedures set forth in Section 14.6, each party shall indemnify the other against any claim, suit or proceeding related to a violation of applicable law.

14.6 Procedure. If one Party (the "Indemnitee") receives any notice of a claim or other allegation with respect to which the other Party (the "Indemnitor") has an obligation of indemnity hereunder, then the Indemnitee will, within 15 days of receipt of such notice, give the Indemnitor written notice of such claim or allegation setting forth in reasonable detail the facts and circumstances surrounding the claim. The Indemnitee will not make any payment or incur any costs or expenses with respect to such claim, except as requested by the Indemnitor or as necessary to comply with this procedure. The Indemnitee will not make any admission of liability or take any other action that limits the ability of the Indemnitor to defend the claim. The Indemnitor shall immediately assume the full control of the defense or settlement of such claim or allegation, including the selection and employment of counsel, and shall pay all authorized costs and expenses of such defense. The Indemnitee will fully cooperate, at the expense of the Indemnitor, in the defense or settlement of the claim. The Indemnitee shall have the right, at its own expense, to employ separate counsel and participate in the defense or settlement of the claim. The Indemnitor shall have no liability for costs or expenses incurred by the Indemnitee, except to the extent authorized by the Indemnitor or pursuant to this procedure.

14.7 Exclusive Remedies. The indemnity and other remedies set forth in this Section shall be the exclusive remedies of the Parties with respect to any claim for which a Party has an obligation of indemnity pursuant to this Section.

## 15. Confidential Information.

15.1 "Confidential Information" means (a) a Party's proprietary technology or computer software in all versions and forms of expression and the Service, whether or not the same has been patented or the copyright thereto registered, is the subject of a pending patent or registration application, or forms the basis for a patentable invention (collectively the "Proprietary Technology"); (b) manuals, notes, documentation, technical information, drawings, diagrams, specifications, formulas or know-how related to any of the Proprietary Technology; (c) information regarding current or proposed products, customers, contracts, business methods, financial data or marketing data, financial results and projections, company and market strategy, product roadmaps, product and competitive sales analysis and plans, product or marketing plans, pricing plans or structures, personnel and recruiting matters, and future releases; and (d) offers or proposals which are provided by a Discloser, including, but not limited to, the fees charged by Discloser and such Confidential Information is either (i) in tangible or other form and labeled "confidential" or the like, or (ii) in a non-tangible form, including, but not limited to, oral information.

15.2 A Party receiving Confidential Information ("Recipient") of the other Party ("Discloser") shall: (i) not disclose the Confidential Information to any third party at any time and Recipient shall limit disclosure of Confidential Information within its own organization to its employees or its legal, financial and accounting advisors having a need to know and who have agreed to be bound by the terms of this Agreement; and (ii) protect the confidentiality of the Confidential Information with at least the same degree of care as Recipient uses to protect its own Confidential Information of a like nature, but no less than a reasonable degree of care. Recipient shall be entitled to disclose Confidential Information solely to the extent necessary to comply with a court order or as otherwise required by law or by a regulatory agency or government body, provided that Recipient shall first give notice to Discloser and make a reasonable effort to obtain a protective order to protect the confidentiality of the information. If such protective order is not obtained, Recipient agrees to disclose only that portion of the Confidential Information which it is legally required to disclose. Recipient shall immediately notify Discloser of any actual or suspected unauthorized disclosure of Confidential Information. Recipient shall not modify, reverse-engineer, decompile, create other works from, or disassemble any software programs contained in the Confidential Information without Discloser's prior written consent.

15.3 The obligations described in Section 15.2 impose no obligation upon Recipient with respect to any Confidential Information which (a) is or becomes a matter of public knowledge through no fault of Recipient; (b) is rightfully received by Recipient from a third party without a duty of confidentiality to a third party by, or with the authorization of, Discloser; (c) is disclosed without a duty of confidentiality; or (d) is independently developed by Recipient. The burden of proving any of the above exemptions is on Recipient.

15.4 Upon the written request of Discloser, Recipient shall immediately destroy or return to Discloser, as requested by Discloser, all Confidential Information of Discloser in its possession, together with all records in any manner pertaining to any of Discloser's Confidential Information. Recipient shall also, upon the written request of Discloser, furnish Discloser with a certificate of an officer verifying that all of the foregoing have been destroyed or returned to Discloser.

15.5 The Parties acknowledge that UTA's ability to protect confidential information is subject to the provisions of the Utah Government Records Access and Management Act.

15.6 The terms set forth in this section replace any prior non-disclosure agreement executed between the Parties.

## 16. Miscellaneous.

16.1 Entire Agreement, Modifications, and Waivers. This Agreement, including all Exhibits hereto, contains the entire agreement between SumTotal and Customer with respect to the subject matter hereof. All Exhibits are incorporated into this Agreement by reference, and all references to "this Agreement" in any Exhibit include all other Exhibits hereto. This Agreement may not be modified except by written instrument signed by both Parties and referring to the particular provisions to be modified. All terms, conditions, or provisions which may appear as pre-printed language or otherwise be inserted within any purchase order shall be of no force and effect notwithstanding the acceptance of such purchase order after the date of this Agreement. If any provision of this Agreement is declared invalid or unenforceable, then the court shall replace the invalid or unenforceable provision with a valid and enforceable provision that most accurately reflects the Parties' intentions and the remaining provisions of this Agreement shall remain in full force and effect. Without limiting the generality of the foregoing, Customer agrees that Section 13 will remain in effect even if Section 12 is found to be unenforceable in whole or in part. Failure by either Party to enforce any provision of this Agreement will not be deemed a waiver of future enforcement of that or any other provision. Wherever the term "including" is used, it shall mean "including, but not limited to". This Agreement may be executed in one or more counterparts, each of which shall be deemed an original for all purposes, and together shall constitute one and the same agreement.

16.2 Headings, Advice of Counsel, and Drafting. Headings used in this Agreement are provided for convenience only, and will not in any way affect the meaning or interpretation of each section. The Parties acknowledge that they have been advised by counsel of their own choosing, played equal parts in negotiating this Agreement and that its terms will be interpreted without any bias against one Party as drafter.

16.3 Governing Law and Venue. This Agreement and all disputes hereunder, and the rights and obligations of the parties hereto, will be governed by and construed in accordance with the laws of State of Utah without reference to its conflicts or choice of law provisions. All claims, disputes and lawsuits brought or filed in connection with this Agreement will be brought in the courts of the state of State of Utah, and each party to this Agreement hereby irrevocably submits to the jurisdiction of and venue in such courts. Each Party also hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement. In the event of any suits or actions or other proceedings to enforce the terms of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and other costs and expenses incurred therein.

16.4 Notices. All notices given hereunder will be in writing and will be deemed to be duly given if delivered by any of the following methods: (i) by personal delivery; (ii) by electronic mail or facsimile, with a confirmation copy sent by first class mail; (iii) by registered or certified mail, postage prepaid, return receipt requested; or (iv) by a nationally recognized overnight courier. A notice sent by certified mail or express courier will be deemed given on the date of receipt or refusal of receipt. A notice sent by electronic mail or facsimile will be deemed given on the date of electronic confirmation of receipt. Notices will be sent to the respective addresses of each party as follows.

If to SumTotal:  
SumTotal Systems LLC  
300 Innovative Way, Suite 201  
Nashua, NH 03062  
Attn: Contracts Dept Admin  
Fax: (603) 324-3009

If to Customer:

Attn:

16.5 Force Majeure. Neither Party shall be liable for failure to perform or for delay in performance hereunder due to causes beyond its reasonable control (each a "Force Majeure"), including, but not limited to, acts of God, fires, floods, earthquakes, accidents, Internet service interruptions or slowdowns, vandalism or "hacker" attacks, strikes, acts of war, acts of terrorism, riot, embargoes, fuel crises, acts of civil or military authorities, or intervention by governmental authority, provided that such Party gives prompt written notice thereof to the other Party. Any failure occasioned by the foregoing shall be remedied as soon as reasonably possible.

16.6 Publicity. Customer will be eligible to participate in SumTotal's customer reference program which may include, but is not limited to, participation in customer case studies, press releases, collateral, and opportunities with media and industry analysts. SumTotal is permitted to use Customer's name and logo in lists with other customers (including listing of customers on its website). The Customer reserves the right to revoke this privilege at any time. However, SumTotal shall not use Customer's name in any other advertising material (including, without limitation, online or print-based advertisements) without advance authorization from Customer, which will not be unreasonably delayed, conditioned or withheld. Except as set forth in this Section above, there shall be no public announcement of this Agreement or the relationship between the Parties without mutual review and approval by both Parties, except as part of required governmental filings, SEC filings, quarterly earnings announcements and financial presentations.

16.7 Injunctive Relief. The Parties each acknowledge that the breach or threatened breach of this Agreement could give rise to irreparable injury to the non-breaching Party which would be inadequately compensated in money damages. Accordingly, the non-breaching Party may seek a restraining order and/or an injunction prohibiting such breach in addition to any other legal remedies which may be available. The Parties agree that the non-breaching Party will not be required to post a bond in seeking injunctive relief under this Agreement.

16.8 Export Control and Economic Sanctions. Customer agrees to comply with all U.S. export and re-export control laws and regulations and the U.S. economic sanctions, including the Export Administration Regulations ("EAR") administered by the U.S. Department of Commerce, the laws and regulations administered by the U.S. Department of the Treasury's Office of Foreign Assets Control, and the International Traffic in Arms Regulations ("ITAR") administered by the U.S. Department of State, and not cause SumTotal to violate the same. Without limiting the foregoing, Customer covenants that Customer shall not -- directly or indirectly -- sell, export, re-export, transfer, divert, or otherwise dispose of any products, software, or technology (including products derived from or based on such technology) received from SumTotal under this Agreement to or for use in or by any country (such as Cuba, Iran, North Korea, Sudan, or Syria), entity, or person subject to restrictions under the laws or regulations of any jurisdiction, including without limitation, the United States, without providing advance notification to SumTotal and obtaining prior authorization from the relevant government authorities as required by those laws and regulations. Prior to any such export event, Customer and SumTotal shall execute a written agreement to govern the use, control, and transfer of the applicable software and data. Customer hereby indemnifies and holds harmless, to the fullest extent permitted by law, SumTotal and our assigns from and against any fines, penalties, judgments, settlements, and reasonable documented costs, including attorney's fees, that may arise as a result of Customer and Customer's agents, officers, directors or employees breach of this provision.

16.9 Assignment. This Agreement and any rights granted to Customer hereunder, are non-transferable, non-exclusive, non-assignable, limited and personal to Customer. Neither Party may assign its interest in this Agreement without the other Party's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, SumTotal may transfer and/or assign some or all of this Agreement by operation of law due to a merger or change of control, without prior notice to Customer or Customer's consent. For the purposes of this Agreement, "change of control" means consolidation, or any sale of all or substantially all of SumTotal's assets or any other transaction in which more than 50% of its voting securities are transferred. This Agreement will inure to the benefit of and be binding upon the Party's successors and permitted assigns. Unless otherwise specifically agreed to by the non-assigning Party, no assignment by either Party shall relieve the assignor from its obligations pursuant to this Agreement. Any assignment in violation hereof shall be null and void.

16.10 Relationship of the Parties. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties.

16.11 Audit. Customer agrees to maintain accurate and detailed records of the number of Users who have been given access to the Service. SumTotal shall have the right to verify the number of Users with access to the Service under this Agreement once annually. Notwithstanding the foregoing, SumTotal shall have the right to examine such records and audit Customer's access more than once per year if the results of any audit reveal a failure of Customer to comply with the terms of this Agreement. Customer agrees that SumTotal shall have the right to audit Customer's records for compliance with this Agreement at any time during Customer's normal business hours upon reasonable notice, during the term. Customer agrees that Customer shall pay any underpaid fees and if such underpaid fees are in excess of five percent (5%) of the total fees due under this Agreement, then Customer shall also pay SumTotal's reasonable costs of conducting the audit. Amounts owed pursuant to this section are due upon invoice.

**END OF AGREEMENT**

**EXHIBIT B  
PROFESSIONAL SERVICES**

This Exhibit sets forth the additional terms and conditions under which SumTotal will provide professional services in connection with the solution provided pursuant to this Agreement.

**1. Performance of Services.**

(a) Statements of Work. Each professional services project SumTotal undertakes shall be described in statements of work (each a "Statement of Work") setting forth the agreed upon the scope of the Statement of Work, Service Deliverables, estimated or actual pricing and any special payment terms and, if applicable, project schedule, Service Deliverables, and estimated delivery dates. Both Parties shall execute each Statement of Work and each is incorporated into this Agreement. If there is a conflict between the terms set forth in this Agreement and a Statement of Work, the terms set forth in the applicable Statement of Work will control.

(b) Delivery and Cooperation. Customer acknowledges that Customer's cooperation is essential to the timely performance of SumTotal's services. Customer will, to the extent required in connection with the performance of SumTotal's services: (i) provide SumTotal with any necessary Customer materials; (ii) provide SumTotal with any necessary access to Customer's personnel, facilities or data; (iii) cause the appropriate personnel to cooperate with SumTotal as required for SumTotal to provide SumTotal's services, including responding promptly to questions or issues; and (iv) make all payments when due. Customer's delay or failure to do so may delay the estimated delivery schedules set forth in the Statement of Work. If Customer fails to do any of the foregoing, both Parties will cooperate in good faith to develop a revised written delivery schedule and written Statement of Work or change order signed by both Parties with new pricing.

(c) Place of Performance. Though not anticipated, if Customer requests SumTotal's personnel, agents or representatives are required to travel to a location other than one of SumTotal's facilities, Customer will pay or reimburse SumTotal upon invoice travel expenses including airfare, ground transportation, lodging and meals for personnel required to travel.

(d) Qualified Personnel. SumTotal will provide all services in accordance with current industry standards and practices using qualified personnel with the necessary skills, qualifications and experience to provide the Service Deliverables in accordance with the applicable Statement of Work. All personnel providing services will be SumTotal's employees acting within the scope of their employment and under obligation to assign all rights in the Service Deliverables to SumTotal, or will be independent contractors under written obligation to assign all such rights to SumTotal.

**2. Services Payment Terms.**

Customer will pay SumTotal for all undisputed services provided under a Statement of Work. Customer will pay SumTotal for time and materials projects at the then-current prevailing hourly rate set forth in a Statement of Work. Fixed fee rates, if applicable, shall be negotiated between Customer and SumTotal. Hourly rates are subject to change. SumTotal will invoice Customer on a time and materials basis at the end of each month at the billing rates set forth in the Statements of Work for work performed on each Statement of Work during the previous month. Such invoices will include a summary of all time expended for each personnel classification providing services during the month. Fixed fees shall be due upon execution unless otherwise stated in the relevant Statement of Work, except that fixed training fees, if any, shall be due upon completion.

**3. Termination of Projects.**

Customer may terminate any Statement of Work for any reason upon 30 days prior written notice to SumTotal. If any particular Statement of Work is terminated for any reason other than an uncured breach by SumTotal, after receiving 30 days prior written notice from Customer, then SumTotal shall deliver the work completed on the Service Deliverables then in process and be paid for all services performed through effective date of termination based on the actual time expended for time and materials projects. If the Parties agree upon a fixed price for Professional Services in a Statement of Work, in the event of termination SumTotal shall be entitled for prorated remuneration of the Professional Services actually provided. Such proration shall be calculated based upon actual effort expended by SumTotal through the date the termination became effective, but in no case shall exceed the original agreed-upon fixed price or the amount that would have been charged had the Professional Services been invoiced on a time and materials basis, excluding any exceeding or additional claims. Customer will not be entitled to any refund of amounts previously paid under a Statement of Work if Customer elects such early termination.



**4. Changes to Service Deliverables.**

(a) Changes to Project Scope. Customer may request changes to the scope of a Statement of Work. Any changes to the scope of a statement of work shall result in a change order to such statement of work or a new statement of work. Any scope changes shall be made pursuant to the terms set forth in a Statement of Work, to be mutually agreed upon by the Parties.

(b) Changes to Non-functional Elements. Customer acknowledges that certain non-functional or aesthetic elements of the Services Deliverables such as screen displays and user interface design can vary greatly without impact on the functional or performance specifications. SumTotal will incorporate any nonfunctional or aesthetic elements specified in the Statement of Work into the Service Deliverables, and will work together with Customer in the design of such nonfunctional or aesthetic elements. If Customer wants to change the nonfunctional or aesthetic elements of any Service Deliverable which meets the functional and performance specifications and otherwise complies with the Statements of Work, then Customer agrees to compensate SumTotal at a mutually agreed price set forth in a change order or at SumTotal's then current hourly rates for any additional time required to make the nonfunctional or aesthetic elements of the Service Deliverables satisfactory to the specifications provided by SumTotal.

**EXHIBIT C  
CUSTOMER MAINTENANCE**

This Exhibit sets forth the additional terms and conditions under which SumTotal will provide customer maintenance services in connection with the Software licensed to Customer pursuant to this Agreement.

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**Customer Maintenance Contact Information:**

SumTotal Systems Maintenance Web Site: [www.sumtotalsystems.com/support](http://www.sumtotalsystems.com/support) (Note: Follow the instructions for submitting a technical issue or question to SumTotal Systems.).

The contact information in the url above and the information, policies and procedures posted on the url are current as of the date of this Agreement. SumTotal reserves the right to change its contact information, and the information, policies and procedures posted on the url from time to time upon notice to the Designated Contacts.

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## **B1. Additional Definitions.**

(a) "Designated Contacts" means the individuals designated by Customer and agreed to by SumTotal who are authorized to contact SumTotal's customer maintenance staff and who will coordinate all of Customer's Error submissions and maintenance requests.

(b) "Error" shall mean a reproducible defect in the Software when operated on a Supported Environment, which causes the Software not to operate substantially in accordance with SumTotal's Published Documentation.

(c) "Error Correction" means a modification or patch that brings the Software into substantial conformance with SumTotal's Published Documentation, or a procedure, routine or other information that enables Customer to avoid the practical adverse effect of an Error.

(d) "Instance" shall mean one or more SumTotal web application servers.

(e) "Maintenance Release" means an update to an existing version of the Software containing Error Corrections or minor functionality enhancements. A Maintenance Release is designated as a numbered service pack for the current version, with no change in the version number.

(f) "New Version Release" means a new version of the Software containing new features or enhancements to functionality. A New Version Release is designated by an increase in the version number. e.g. from 2.5 to 2.6 or 3.0. "New Version Release" only includes releases of the Software in a language included in Customer's License Configuration Order Form or Exhibit C.

(g) "Primary Instance" means an Instance in Customer's production environment containing Customer's live training, payroll, attendance or expense records

(h) "Secondary Instance" means an Instance in Customer's testing environment used for testing or staging of Customer's data.

(i) "Supported Environment" means a hardware, operating system and database platform meeting the minimum system configuration requirements for the proper use and operation of the Software as set forth in SumTotal's Published Documentation.

(j) "Maintenance Term" means any period during which Customer is entitled to receive maintenance hereunder, including any renewals or extensions thereof.

## **B2. Maintenance Services.**

(a) Standard Maintenance Provided. During each Maintenance Term, SumTotal will provide the following maintenance, subject to the procedures and limitations described herein: (i) clarifying and assisting in the operation of the features and functions of the Software; (ii) clarifying SumTotal's Published Documentation; (iii) assisting in identifying and verifying the causes of suspected Errors; and (iv) providing Error Corrections. Such maintenance will be provided for the Primary Instance and Secondary Instance. During each Maintenance Term, Customer will have access to SumTotal's online Learning Portal located at <http://Learning.SumTotalSystems.com>. The Learning Portal provides the Customer with access to online learning, knowledge documentation, and tools that enable Customer to enhance Customer's knowledge of the Software and use the mobile and social learning features. SumTotal provides support on a worldwide basis; therefore, Customer Data may be accessed by SumTotal employees outside of the United States.

For purposes of clarity and the avoidance of doubt, it is hereby noted that the Maintenance Services as referenced above are only for Maintenance Services for the standard Service to which access is provided under the Agreement and not for any customizations which SumTotal has generated for the Customer; maintenance services for such customizations are subject to a specially designated and distinct maintenance fee for the support of such customizations. Such customizations can only be provided for the Hosted Subscription hosting environment and not for the SaaS hosting environment.

(b) Self Help Maintenance Resources. Customer agrees that the users of the Software will first attempt to answer any questions or resolve any issues with respect to the operation of the Software by using the following self-help resources: (i) the Help function of the Software and (ii) SumTotal's customer maintenance web site.

(c) Contacting Customer Maintenance. If Customer is unable to resolve an issue or question with respect to the Software using the self-help resources described above, the Designated Contacts may contact a customer maintenance representative to receive maintenance using one of the methods described below. SumTotal will provide maintenance only in English and only to the Designated Contacts. Any communication between the Designated Contacts and a customer maintenance representative must be in English. SumTotal will not provide maintenance to end users of the Software or to any person other than the Designated Contacts.

(i) Telephone Hot Line. SumTotal will provide telephone maintenance to the Designated Contacts from 6am to 6pm MST, excluding SumTotal Systems holidays (the "Support Hours"). SumTotal will provide Customer with a list of SumTotal Systems holidays and any reduced maintenance hours on those holidays upon request

(ii) Web Email Template. SumTotal will use commercially reasonable efforts to provide an acknowledgement to web email sent to "http://www.sumtotalsystems.com/support" within eight (8) business hours after SumTotal receive the email.

(d) Error Correction. When Customer reports an Error to SumTotal, Customer should include a detailed description of the Error and the severity level determined in accordance with Section B2(e) below. When SumTotal receives notice of an Error, SumTotal will assign a problem tracking number to be included in all correspondence between Customer and SumTotal related to the Error and after SumTotal's e-mail acknowledgement described in Section B2(c)(ii) above SumTotal will provide a response in accordance with the severity levels and response times identified in Section B2(e). Thereafter, SumTotal will use commercially reasonable efforts to provide an Error Correction. The Error Correction may require that Customer install the latest Maintenance Release for the supported version of the Software on which Customer reported the Error. An Error Correction may require multiple contacts and off-line research. The Error Correction, when completed, may be provided in the form of a Software patch consisting of sufficient programming and operating instructions to implement the Error Correction, which will be provided to Customer via email, download or other electronic means.

(e) Response Times. Our response to an Error depends on the severity of the Error and the level of maintenance purchased by Customer, as determined by Table B1. For each level of severity, SumTotal customer maintenance representatives will use commercially reasonable efforts to respond, during the Support Hours, within the times set forth in Table B1. Response time is the time from SumTotal's receipt of notice of the Error until SumTotal contacts the Designated Contact reporting the Error to begin resolution efforts, not the time to deliver an Error Correction. SumTotal will respond to an Error which arises in the Primary Instance at all severity levels set forth in Table B1. If an Error arises in the Secondary Instance, SumTotal will only respond according to the Severity 3 level response time, as set forth in Table B1.

(f) Additional Services with Premier Maintenance for the Primary Instance and Secondary Instance. If Customer has purchased Premier Maintenance, SumTotal will provide Customer with the following additional services for the Primary Instance and Secondary Instance: (i) a client operations manager responsible for proactively managing Customer's maintenance issues during the Maintenance Hours; (ii) an annual one-day visit by the client operations manager to Customer's location on a mutually-agreed date (travel and expenses not included); (iii) monthly usage reports detailing maintenance activity; (iv) review of relevant error corrections delivered to SumTotal's customer base; and (v) accelerated response times.

(g) Exclusions from Maintenance Program. SumTotal is not responsible or liable for causes external to the Software, including but not limited to: (i) Customer's failure to incorporate Maintenance Releases or New Version Releases; (ii) installation of the Software or any New Version Releases not in accordance with the documentation provided with the Software or New Version Releases; (iii) Customer's use of the Software with any software or hardware other than the Supported Environment; (iv) problems resulting from use of the Software in a manner not permitted pursuant to Customer's license; (v) modifications, alterations, or additions to the Software by Parties other than SumTotal (including without limitation, modifications, alterations, or additions to the Software made by Customer); or (vi) damage from any source other than SumTotal including but not limited to water, humidity, fire, power surges, computer viruses, and accidents ("Excluded Services"). Any maintenance or services required to fix the Excluded Services will be billed to Customer on a time-and-materials basis in accordance with SumTotal's then current rates. Such services shall be set forth on a mutually agreed upon Statement of Work and provided to Customer pursuant to Exhibit A. Unless SumTotal is hosting the Software at its data center, this maintenance program does not include maintenance in connection with or correcting Errors arising out of or related to a database management server or a web server or any other third party component that is used in conjunction with the Software. SumTotal may, but are not required to, provide Error Corrections for such Errors at its then current time and materials rates. Maintenance does not include Software installation, configuration or services provided on-site at Customer's location. If SumTotal is required or requested to travel to Customer's facilities, any services will be provided at then current time and materials rates and Customer will reimburse SumTotal for all reasonable travel expenses, including meals and lodging. Maintenance does not include

problems or errors in modifications to the Software SumTotal provides as a Service Deliverables pursuant to Exhibit A. Service Deliverables are provided with a warranty as set forth in Section 12 of this Agreement. SumTotal are not responsible for restoring lost data or damage to Customer's data base that result from Customer's actions. If Customer desires to purchase upgrade services or other professional services from SumTotal outside the scope of the maintenance in this Exhibit B, then SumTotal will provide such professional services to Customer for a charge as set forth in a mutually agreed Statement of Work pursuant to Exhibit A.

### **B3. Customer's Responsibilities.**

(a) Supported Environment and Operations. Customer is responsible for undertaking the proper supervision, control and management of Customer's use of the Software including, but not limited to: (i) providing, maintaining and assuring proper configuration of the Supported Environment; (ii) following industry standard procedures for the security of data, accuracy of input and output, and back-up plans, including restart and recovery in the event of hardware or software error or malfunction; and (iii) maintaining a procedure external to the Software for reconstruction of lost or altered files, data and programs. This Section will not apply to Customer if SumTotal is hosting the Software at its data center.

(b) Assistance in Providing Maintenance. Customer will provide reasonable assistance to SumTotal in determining and resolving Errors Customer report. Error determination activities may include performing network traces, capturing error messages, collecting configuration information and other similar activities to allow SumTotal to reproduce the Error. Resolution activities may include access to Customer's personnel and/or remote access to the Supported Environment. Customer agrees to allow SumTotal to use remote access tools, with the participation and under the supervision of a Designated Contact, to access the Software in the Supported Environment and modify its configuration as part of its Error determination and resolution activities. SumTotal may not be able to provide Customer with an Error Correction without such remote access. Customer is responsible for performing activities to implement Error Corrections SumTotal provides and for responding in a timely manner to requests for information by its customer maintenance staff. Error Corrections may include changing, installing or reinstalling new or existing versions of web browser software or new components, or modifying processes. Any information Customer provides SumTotal in connection with the maintenance process that Customer designates as confidential will be used only to resolve reported Errors, will not be disclosed to anyone other than SumTotal personnel involved in resolving the Error. As part of SumTotal's Error resolution process, information Customer provides to SumTotal may be made available to its employees in foreign countries, unless Customer notifies SumTotal otherwise in writing when providing SumTotal with such information.

(c) Designation of Maintenance Contacts. Customer will designate up to the number of individuals specified in this Agreement as the Designated Contacts for receiving maintenance hereunder and notify customer maintenance of the Designated Contacts. Customer may change the Designated Contacts by notifying customer maintenance, but may not have more than the number of Designated Contacts set forth in Exhibit C at one time, unless otherwise agreed upon. Each Designated Contact may not be changed more than once in a 30-day period. All Designated Contacts must complete SumTotal's standard Designated Support Contact training to be certified by SumTotal in basic product knowledge prior to becoming a Designated Contact hereunder.

(d) Training. Customer is responsible to ensure Designated Contacts and all other appropriate personnel have been trained in the operation and use of the Software and the Supported Environment.

### **B4. New Releases of the Software.**

If Customer has purchased access to the Service via the Hosted Subscription model, SumTotal will provide maintenance as described herein for the most current Maintenance Releases made with respect to the current New Version Release and the last two New Version Releases immediately preceding that release. If Customer has purchased access to the Service via the SaaS model, (i) SumTotal will implement any upgrades at SumTotal's discretion and on SumTotal's timeline. New Version Releases will not occur more than once every six (6) weeks, with the following exception:

For the Payroll and HR module, SumTotal will provide maintenance as described herein for the current New Version Release and for the last New Version Release immediately preceding that release.

**Table B1  
Severity Level and Response Times**

Severity Level	Severity Level Description	ST Response
P-0	<p>Complete Production Outage</p> <ul style="list-style-type: none"> <li>• Production site is inaccessible and cannot be used</li> </ul>	SumTotal will work on the outage until the production site is accessible.
P-1	<p>Production environment does not function</p> <ul style="list-style-type: none"> <li>• No workaround is available</li> <li>• Critical and significant number of users are affected; and</li> <li>• There is a critical business impact</li> </ul>	SumTotal will triage and work on the issue as a critical priority and work towards providing a workaround solution, a hot fix or schedule the fix for a roll up patch dependent on the impact and nature of the issue.
P-2	<p>Production environment is operational</p> <ul style="list-style-type: none"> <li>• A workaround is available</li> <li>• Significant number of users are affected; and</li> <li>• There is a major business impact</li> </ul>	SumTotal will triage and work on the issue and work towards providing a workaround solution or schedule the fix for a roll up patch, maintenance pack or service pack, dependent on the impact and nature of the issue.
P-3	<p>Environment is operational</p> <ul style="list-style-type: none"> <li>• Minor application issue; or</li> <li>• Cosmetic issue; or</li> <li>• Documentation questions; or</li> <li>• Product feedback or enhancement requests</li> </ul>	SumTotal will identify a potential future delivery date in a future release.

**Response Times:**

Standard		Premier	
Severity Level	Initial Response	Severity Level	Initial Response
P-0	1 hour	P-0	1 hour
P-1	4 hours	P-1	1 hour
P-2	8 hours	P-2	4 hours
P-3	2 days	P-3	8 hours

**EXHIBIT D**

**ORDER FORM**

This Order Form together with any Exhibits attached hereto which are hereby incorporated by reference (the "Order Form") is effective as of 23 October 2020 (the "Effective Date") by and between SumTotal Systems LLC ("SumTotal") and Utah Transit Authority ("Customer") and issued in accordance with the terms and conditions and made a part of the Professional Services and License Agreement between SumTotal and Customer dated 23 October 2020 (the "Agreement").

**1. SUBSCRIPTION SERVICE CONFIGURATION**

**INITIAL SUBSCRIPTION TERM:**     **START DATE:** 23 OCTOBER 2020                     **END DATE:** 22 OCTOBER 2023

<b>SOFTWARE MODULES</b>	<b>COMMITTED NUMBER OF USERS DURING INITIAL SUBSCRIPTION TERM</b>	<b>LICENSE TYPE</b>
PS-IMPLEMENTATION-LEARN-FF (Y1 ONLY): SEE ATTACHED EXHIBIT B	N/A	HOURS
TALENT DEVELOPMENT-SAAS WITH AUDIT	3,000	NAMED USER

**HOSTED ENVIRONMENT TYPE:** SaaS

**INITIAL STORAGE ALLOWANCE (in GB):** SumTotal will provide data storage as follows: 500 gigabytes of storage space. All environments provided (typically Production & Stage) are counted. If Customer exceeds the above allowances, Customer will be charged an additional monthly fee of \$8 for each additional GB used beyond the above allowances. This fee will be \$5 per month per additional GB if an amendment is signed to increase the storage allowance. The pricing outlined in the two preceding sentences is only valid for the Initial Subscription Term.

**NUMBER OF DESIGNATED CONTACTS:** 2

**2. SUBSCRIPTION FEES AND COMMITMENT.** Customer's total commitment hereunder is set forth below and is calculated as follows (the "Commitment Fee"). Applicable state and local taxes are not included in the totals below and will be calculated as of the date of the invoice(s) issued hereunder:

<b>YEAR/TERM</b>	<b>ANNUAL SUBSCRIPTION FEES</b>
Y1	\$145,250.00*
Y2	\$50,000.00
Y3	\$50,000.00
TOTAL	\$245,250.00

All fees shall be invoiced annually in advance and are due and payable 100% net 45 days from the date of invoice.

\*SumTotal shall invoice Customer in the amount of \$50,000.00 for the Y1 Annual Subscription Fee. The remaining \$95,250.00 for professional services shall be billed according to the milestone table in Exhibit B.

**OPTION YEAR 1.** SumTotal agrees that Customer may elect to extend the Subscription Term of this Order Form for an additional twelve (12) month period (23 October 2023 – 22 October 2024) for the same Software Modules and number of users set forth herein for an annual license fee of \$50,000.00, provided Customer provides SumTotal with written notice of such election thirty (30) days prior to 23 October 2023 .

**OPTION YEAR 2.** SumTotal agrees that Customer may elect to extend the Subscription Term of this Order Form for an additional twelve (12) month period (23 October 2024 – 22 October 2025) or the same Software Modules and number of users set forth herein for an annual license fee of \$50,000.00, provided Customer provides SumTotal with written notice of such election thirty (30) days prior to 23 October 2024.

**3. DEFINITIONS.**

**License Term** shall mean the period of time from the Start Date through the End Date.

**Talent Development** includes the following modules: Learn, Talent Suite (includes Performance Management, 360/Multi-rater, Succession Planning, and Compensation), and Onboarding. Customer acknowledges that implementation services shall be required to enable each of the modules contained in the Talent Development. In the event that Customer elects to implement all or some of the modules contained in the Talent Development, the parties shall execute a mutually agreeable statement of work setting forth the modules to be implemented and the applicable fees to such implementation.

**RATIFICATION.** The terms and conditions of the Agreement shall govern the use of the Software provided hereunder

The authorized representatives of SumTotal and Customer have executed this Order Form signifying their agreement to its contents.

**SUMTOTAL SYSTEMS LLC**

**UTAH TRANSIT AUTHORITY**

Mike Manix

Mike Manix (Sep 19, 2020 09:32 EDT)

Signature Mike Manix

Print Name Director of Revenue

Title Sep 19, 2020

Date

Signature

Print Name

Title

Date

Signature Carolyn Gonot

Print Name Executive Director

Title

Date

Signature Kim Ulibarri

Print Name Chief People Officer

Title

Date



**ADDENDUM A TO EXHIBIT D  
CUSTOMER INFORMATION**

BILL TO	Utah Transit Authority
CONTACT	David Schroeder
PHONE	801-5551212
E-MAIL	ap@rideuta.com
ADDRESS	669W 200S
CITY	Salt Lake City
STATE	Utah
COUNTRY	US
ZIP CODE	84101

SHIP TO	Utah Transit Authority
CONTACT	David Schroeder
PHONE	801-5551212
E-MAIL	dschroeder@rideuta.com
ADDRESS	669W 200S
CITY	Salt Lake City
STATE	Utah
COUNTRY	US
ZIP CODE	84101

**ADDENDUM B TO EXHIBIT D  
STATEMENT OF WORK**

- **Introduction**

The purpose of this Statement of Work (“SOW”) is to communicate the tasks and resources required to assist Customer with the implementation of selected modules in the SumTotal suite listed below.

The implementation of the SumTotal system will be done in a customer enablement fashion, with SumTotal providing guidance and advice on configuration of system options, with the customer performing much of the hands-on configuration, giving Customer resources the opportunity to learn by doing and begin building the familiarity needed to maintain the system after go-live.

The performance of this Statement of Work involves activities to be performed by both parties. This SOW specifies the primary responsibilities of both SumTotal and the Customer for the project to be completed within the timeframe and budget provided.

**Module Summary**

As part of this SOW, the following modules will be enabled, and configuration of basic functionality completed (specific details provided in the *Services Scope* section below).

- SumTotal Core Platform
- SumTotal Learn

**Add-On Summary**

In addition to standard platform and module implementation, the following services are included in the scope of this SOW:

Add-On Packages	Description / Quantity
<b>SumTotal Core Platform Add-ons</b>	
<b>Single Sign-on</b>	Configuration of single sign-on capabilities using the standard SumTotal authentication functionality
<b>Data Import</b>	User Data feeds from JDE and integration with Class Marker
<b>SumTotal Learn Add-ons</b>	
<b>SumTotal Mobile Quick-Start Package</b>	Consulting services to review configuration options for the SumTotal Mobile functionality and guide customer in their configuration of the mobile learning functionality
<b>Historic Data Migration</b>	Guidance and support for a one-time import of extracted learning data from Customer’s current LMS, using flat files via a batch process.

## • Description of Implementation Services

### ○ Implementation Approach

#### **Project Methodology**

The implementation and configuration effort under this SOW will be performed following SumTotal's TotalSuccess methodology. This is a linear approach through the following specific project phases, with iterative configuration and testing:

- **Envision:** The joint team holds a kickoff meeting to review the project scope, goals, approach, and timeline, and the project managers prepare the initial project plan
- **Plan and Design:** The joint team conducts consulting workshops to capture information about the future-state process design and configuration decisions which will guide the implementation and configuration of the application. Data requirements are developed from this information. Desired functionality or processes to be configured after the completion of this SOW are captured for future reference.
- **Configure and Integrate:** SumTotal implements the application environments and assists customer with importation of customer data, configuration of processes, rules, and content, and setup of ongoing data integration with external system(s). Customer will conduct simple unit testing during the configuration effort.
- **Test and Validate:** Customer conducts structured validation of data and configuration and teams manage and resolve issues. Configuration is adjusted based on feedback from testers. Teams complete knowledge transfer and training for system administrators to prepare them for ownership of the system after go-live.
- **Deploy:** Final configuration is deployed to the production environment and Customer team is transitioned from Professional Services to SumTotal Customer Support. Customer assumes ownership and maintenance of their configured site(s).

#### **Project Governance**

Project Management is critical to the success of this large, complex project. As the primary point of contact, the Project Managers are responsible for coordinating the resources and activities of their teams and involving the correct resources to address the technical and functional questions and issues that arise throughout the project. They are also responsible for overseeing communication, planning, risk management, and budget planning – all critical elements that significantly contribute to the success of the project. Project Management is a joint responsibility of both parties.

The project management methodology will include weekly project status meetings involving the project teams (project managers from both parties at a minimum and other technical/functional team members, as appropriate) and monthly (or as needed), Governance Committee meetings which will involve the executive sponsors and key decision makers from each party. These meetings will allow participants to review the overall project progress and any critical issues escalated to the committee for resolution.

SumTotal will provide project management for the entire project, including:

- Jointly developing the project plan with the Customer Project Manager based on the standard SumTotal methodology and a draft prepared by the SumTotal Project Manager

- This may be done onsite in a multi-day workshop, as jointly determined by the parties
- Identifying, tracking, and managing issues, risks, and action items
- Management and coordination of documents and deliverables
- Providing weekly status reports and conducting weekly status calls
- Coordinating SumTotal resources
- Working with the Customer Project Manager on future budgets
- Maintaining the Issues Log
- Scheduling and leading governance calls with the representatives from both organizations' management

Customer will provide project management with responsibility for Customer resources and deliverables, including:

- Developing the project plan with SumTotal Project Manager
- Managing customer tasks, resources, and timelines in coordination with the SumTotal project plan
- Coordinating customer deliverables and action items on schedule
- Ensuring participation of full customer team and decision makers in kickoff call and project plan review
- Completing project onboarding activities (e.g. training, etc.) prior to kickoff meeting
- Creating and conducting an appropriate Change Management Plan for administrators and users to ensure successful transition and adoption of the new system

## ○ Implementation Activities

The following is a description of the implementation activities to be performed by SumTotal and Customer resources.

## ■ Configuration Workshop

*SumTotal Activities – Conduct a three-day workshop for:*

- For **Core Platform**, on the following topics
  - Employee Profile
  - Organizational Hierarchy
  - Security settings and roles
  - Home dashboard/widgets
  - Branding and themes
  - Data import
- For **Learn Module**, to review business configurations for the learning management functionality
- Review of standard configuration options with Customer
- Draft Configuration Workbooks to document decisions made during the workshop

*Customer Activities*

- For **Core Platform**, completion of the *Core Platform Overview* online training courses available in the SumTotal Customer Community, prior to the workshop
- For **Learn Module**, completion of the *SumTotal Learn Product Orientation* online training courses prior to the workshop

- Workshop participation by Customer resources who are knowledgeable about customer business models and empowered to make decisions on behalf of their respective organizations
- Review, finalize, and approve the initial Configuration Workbook in a timely manner

## ▪ System Configuration

### *SumTotal Activities*

- Provide consulting assistance and best practice guidance to Customer during configuration of the system
- Provide support for up to two (2) iterations of configuration

### *Customer Activities*

- Configure the appropriate areas of the system as needed, per the Configuration Workbook
- Timely review of configuration as denoted in project schedule
- Timely feedback during iterations as denoted in project schedule
- Approval of configuration
- Perform basic branding of the application, including setting system/theme colors, uploading Customer logo (set system colors, upload logo, etc.)
- For the **Learn** module
  - Loading of Customer training content into system
  - Configuration of Customer learning activities (e.g. training content, curricula, ILT sessions, audiences, etc.)

## ▪ Single Sign-on Implementation

The implementation of single sign-on will provide authentication via the Customer's authentication system. This will be based on the standard SSO methods supported by the SumTotal SSO broker SAML 2.0 and include support for, ADFS and Okta

### *SumTotal Activities*

- Configuration of SumTotal server/network settings
- Provide remote SumTotal assistance to help Customer configure one authentication method using the standard Single Sign-On methods

### *Customer Activities*

- Configurations within Customer network
- Procurement and configuration of requisite security certificates
- Any additional functional development which may be required on Customer side

## ▪ User and Organizational Data Import

This configuration of user and organizational data import is intended to provide for a recurring, batch-file-based, one-way sync of data from Customer's JDE HRIS to the SumTotal system, using the standard fields and functionality supported by the SumTotal Data Import tool, and integrate with ClassMarker for AICC type courses using Data Import/TMU. If more is required, a change order may be required

### *SumTotal Activities*

- Review Data Import file specifications with Customer, including file format and file transmission requirements
- Assist with initial run of sample data files
- Provide up to thirty (30) hours of consulting services to assist with the setup of the standard data-synchronization imports and up to two (2) iterations of user data file review and troubleshooting.

#### *Customer Activities*

- Creation of required data file(s) from Customer's internal user database into the file format specified by SumTotal
- Testing and data validation after data import
- Data cleanup/correction as needed
- Additional iterations of data import, testing, and troubleshooting, if needed

### ■ **Historic Learning Data Migration – First 500K Records**

The historic data migration will include direct support for a one-time migration of historic learning records from the Customer's legacy LMS to the SumTotal LMS. The data migration will be implemented using SumTotal's Training Migration Utility (TMU) and will only include learning data supported by the TMU. The approach will consist of 1-2 iterations of data migration and testing/validation in the Stage environment, and a final, complete, data migration into the Production environment prior to go-live.

Migrated training information includes:

- Scheduled Instructor Learning Training (ILT) activities (completed, in progress, registered/not started, and/or cancelled) and any web-based activities having links to external systems.
- Inactive Web Based training activities for historical data can also be imported as shell courses; however, the web-based content for active courses needs to be loaded separately by Customer through the SumTotal Learn user interface. The bookmarking of web-based content may not be possible upon re-launch of these courses in SumTotal Learn.
- Examples of the information to be contained within these files: employee number (or some other unique employee identifier), course name, course code (unique identifier), date offered, instructor, location, cost, course completed /missed. Customer is responsible to create, cleanse, and merge the data from their data source in the multiple files according to the format Provider specifies. Customer is also responsible for testing the data once it has been migrated into SumTotalLearn.

#### *SumTotal Activities*

- Configure the TMU for each set of migration files.
- Provide remote technical consulting services to support the data migration, for up to 500k records as Customer tests and revises data files
- Provider will provide remote technical consulting services towards historical training data migration for the first two imports of historic learning data. Provider will configure the SumTotal standard training data migration utility (TMU) that will read from a set of pipe-delimited, flat files in a format specified by SumTotal and prepared by Customer
- Support up to two iterations of data migration and validation

#### *Customer Activities*

- Provide extracted files from Customer's legacy system per SumTotal specifications
- Complete any data cleansing or changes prior to extracts and migrations

- Discuss, decide, and agree on all data mapping between Customer's legacy system and SumTotal Enterprise Learn
- Perform data import using the TMU for historic learning systems
- Complete testing and verification of migrated data in a timely manner
- Make corrections to the files for erroneous or missing data
- Upload roster documents
- Complete any regression testing on data changes/reloads

## ▪ **SumTotal Mobile Implementation**

### *SumTotal Activities*

- Conduct a virtual orientation session for up to twelve (12) participants on using Mobile.
- Mobile system configuration consulting to help Customer decide what content to present as mobile offerings, define mobile users
- Does not include creation of mobile content, however consultant is available to provide recommendations and best practices based on experience
- .

### *Customer Activities*

- Development of mobile-ready content
- Convert any current content to mobile friendly technologies
- Identify user groups to access mobile content
- Test and correct content to work on mobile devices

## ▪ **Learning Administrator Training**

### *SumTotal Activities*

- Conduct up to three-days of onsite training/coaching session for up to 20 attendees. This training can also be done virtually, broken up into up to 6 x 4-hour sessions or 8 x 3-hour sessions.
  - Topics will be selected by Customer from existing training content
  - No new or custom training content will be developed as part of the SOW scope
- Provide feedback, if requested, on training materials as created by the Customer for other administrator or user training
- Upon completion of the training session, admins will be asked to complete a test to confirm knowledge gained during the session.
  - Test results will be shared with the Customer project manager. The project manager will determine whether the admin in question needs to retake training.
  - Additional training, if required, can be conducted by customer admins who have passed the test or via an additional SumTotal training class (additional fees may apply).

### *Customer Activities*

- Complete appropriate online training courses prior to the Learning Administrator training session (all attendees), including, at a minimum the *SumTotal Learn Essentials* training modules
- Review existing training guides and collaborate with SumTotal to define the content and outline for the onsite training session
- If applicable, provide adequate onsite training facility including projector, internet access, catering, and other training materials as needed

- Record training sessions as desired, and/or create any Customer specific notes and documentation to serve as job aids after the training.
- Leverage the training content and information to conduct additional sessions for other administrators or users as needed

## ■ Testing and Validation (“UAT”)

Customer will perform basic unit testing during their configuration effort. Upon completion of the configuration in the Stage environment, Customer will conduct two rounds of User Acceptance Testing (UAT) to validate the configuration and workflows defined during the workshops and captured in the Configuration Workbook and to validate the user experience in customer specific learning scenarios and use cases. Each round of UAT will be completed in two weeks duration.

### *SumTotal Activities*

- Review customer test cases/scripts for completeness and relevance
- Provide guidance on and assistance with triage and troubleshooting of configured system and processes
- Provide assistance during testing with updates to configuration to address testing feedback
- Provide assistance for up to two rounds of testing, with a maximum duration of two weeks each (e.g. test and retest). Note, some testing will be iterative as issues are reported and updates are made throughout the UAT process

### *Customer Activities*

- Creation of test scripts based upon customer use cases and provide test scripts / use cases to SumTotal for review prior to the start of UAT
- Execute test scripts and provide feedback and test results to SumTotal, including test logs
- Perform basic triage and troubleshooting of issues encountered during testing (i.e. of the level typically performed by a system administrator) and provide support to SumTotal for any advanced triage and troubleshooting needed
- Retest and validation for any fixes implemented

## ■ Deployment and Hypercare

Upon completion of testing and validation, defined as resolution of all P0 and P1 items or approval of customer to launch with open items and resolutions plans, SumTotal will assist customer with deployment of the final configuration to the Production environment.

### *SumTotal Activities*

- Provision the Customer’s Production environment, ready for data load and configuration
- Conduct a virtual session introducing customer Designated Support Contacts (“DSCs”) to SumTotal Customer Support, reviewing support procedures, and conducting knowledge transfer from Professional Services to Customer Support
- Provide ongoing consulting support to Customer, to supplement Customer Support and facilitate successful transition, until the later of four weeks after enablement of the Production system, or completion of all holdover P1 issues identified prior to go-live

### *Customer Activities*



- Configure Production environment per the final Configuration Workbooks
- Perform production data load and enable ongoing file transfers from Customer systems to Production environment
- Perform basic “smoke test” of configuration prior to launch to users
- Management of cutover from legacy systems as needed
- Conduct user communication, training, and organizational change management as needed

- Services Scope

- Project Management

- Remote, part-time project management of up to 20 hours per week

- Core Platform Configuration

- Up to two (2) Organizational Hierarchies
- Up to five (5) customer-defined demographic fields
- Profile configuration with permissions, labels, and up to two (2) customer-defined text fields per form
- Four (4) Standard Security Profiles (Employee, Manager, HR Manager, Administrator)
- Up to two (2) additional customer-defined security profiles
- Home and Profile Dashboard configuration based on standard widgets
- Configuration of customer logo, colors and in accordance with out of the box theming features
- Configuration does not include the following:
  - Menu/icon changes
  - Custom dashboards or widgets
  - Profile Approval Workflows
  - Customer-specific Dashboards or Widgets

- Learn Module Configuration

- Configuration is intended to include basic functionality and configuration including the following LMS topics listed below:
  - e-Signature
  - Observation Checklists
  - On the Job Training
  - Skillsoft OLSA integration

- Project Timeline

Based on the conversations between Customer and SumTotal, it is estimated that the project will be executed over a duration of 18-20 weeks.

The project start date and kickoff will be mutually determined by the parties. This date shall not be more than 2 weeks after initial contract payment is made to SumTotal.

The detailed project plan will be jointly developed by the parties, based on a draft template prepared by SumTotal.

The performance of this Statement of Work involves activities to be performed by both parties. If Customer deliverables are not received as scheduled, then completion of this Statement of Work in a timely manner will be jeopardized. SumTotal will notify Customer, should this occur, of the potential impact with regards to additional expenses and/or subsequent schedule changes.

- **Optional Item (Not included in the total cost of this SOW)**

If the Customer chooses to implement these optional items in the future, a change order will be required.

- **1.4 Historic Learning Data Migration – Additional 800k records**

The historic data migration for an additional 800k records and related roster documents is an optional item available to Customer. This includes direct support for a one-time migration of these additional records from the Customer’s legacy LMS to the SumTotal LMS and creating a script for bulk document migration. This will follow the framework of the TMU as provided earlier in the SOW.

- **Payment Terms**

- **Project Fees**

Professional services fees for this engagement as described in this SOW are fixed fee as shown below. All prices provided herein are denominated in the currency of the United States of America (\$ or USD).

Project Element	Fixed Fee Cost (\$ USD)
<b>Implementation Packages</b>	
SumTotal Learn Implementation	\$95,250.00
<b>Optional Items – Not included in total cost and payment milestones</b>	
Historic Data Migration – Additional 800k records	\$10,400.00
Script for Bulk Data Migration Association to Learner Records/Courses	\$8,000.00

All fees will be invoiced and payable 100% net 45 days from the invoice date, based on the milestone schedule below:

Milestone	Description	Payment (excludes optional items)	% of Total Price
1	Customer acceptance of the work: SumTotal setting up Customer access to SumTotal Customer Connect portal, providing Customer with login and access details, and enabling Customer access to training materials and system documentation. If there is no response by the Customer that	\$33,338.00	35%

	there are any issues within 10 days, then SumTotal may invoice for the milestone payment.		
2	Customer Approval of the Configuration Workbooks. If there is no response by the Customer that there are any issues within 10 days, then SumTotal may invoice for the milestone payment.	\$ 33,338.00	35%
3	Final Learn Module Configuration approved by the Customer and released for deployment. If there is no response by the Customer that there are any issues within 10 days, then SumTotal may invoice for the milestone payment.	\$28,574.00	30%
<b>*Totals</b>		<b>*\$95,250.00</b>	<b>100%</b>

\*Actual reasonable and out-of-pocket expenses, travel and tax are not included herein and will be invoiced separately. If travel is required, the expenses will be limited as deemed necessary to the implementation of this project and reimbursed at cost by Customer. SumTotal travel standards and practices will be applied to any travel required.

- ## Modifications to the Statement of Work

Project scope, optional items and schedule changes will be addressed through the Change Order (the "Change Order") process. Any changes shall be documented, reviewed, and mutually agreed upon by both parties. The Change Order shall document the scope of work and a fee estimate. Implementation of the change shall be factored into the initial project plan and a modified completion date for the project will be detailed, if necessary.

- ## Assumptions

- All effort estimates detailed in this document are for expectation-setting purposes only unless other specified or part of an effort-capped activity. Actual effort may vary and will not be reported on by SumTotal
- Scheduling for professional services to be performed are based upon a first come first served basis and will be mutually agreed upon by the parties prior to the commencement of the Professional Services hereunder.
- Services are provided during regular business hours (8:30 a.m. to 5:00 p.m.), not to exceed forty (40) hours per person per week, Monday through Friday, except legal holidays ("Business Hours"), unless otherwise specified by SumTotal. The customer will support SumTotal's holidayschedule.
- Communications and discussions related to the scope of this Statement of Work will be conducted and completed in the English language.
- Services and documentation will be delivered following SumTotal standard methodologies and templates. Additional requirements to adhere to customer-specific methodologies may result in cost and schedule impact.
- Customer is responsible for all User Acceptance Testing (UAT) documentation (i.e. test plans, test cases, scripts, and scenarios) and the development and the execution of all testing in relation to UAT.
- The scope defined in this Statement of Work stands alone to be delivered without dependency on any future functionality defined or to be added to the product roadmap.
- The project is delivered in big-bang approach (one go-live) and is based on expected duration

stated above from project start to end. If Customer requests additional assistance for future phases, that effort will be agreed upon separate from this Agreement.

Travel costs have not been included in the estimates provided. If travel is required, the expenses will be limited as deemed necessary to the implementation of this project and reimbursed at cost by Customer.

SumTotal travel standards and practices will be applied to any travel required






# UTAH Transit Authority

Final Audit Report

2020-09-19

Created:	2020-09-18
By:	Karen Coulombe (Karen.Coulombe@skillsoft.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAbvTkTwEtKgTdRJtaDcGFnixaVDuLDiEF

## "UTAH Transit Authority" History

-  Document created by Karen Coulombe (Karen.Coulombe@skillsoft.com)  
2020-09-18 - 8:52:27 PM GMT- IP address: 75.67.246.248
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-  Document e-signed by Mike Manix (michael.manix@skillsoft.com)  
Signature Date: 2020-09-19 - 1:32:56 PM GMT - Time Source: server- IP address: 75.67.107.252
-  Agreement completed.  
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## MEMORANDUM TO THE BOARD

**TO:** Utah Transit Authority Board of Trustees  
**THROUGH:** Carolyn Gonot, Executive Director  
**FROM:** Bill Greene, Chief Financial Officer  
**PRESENTER(S):** Monica Morton, Fares Director

**BOARD MEETING DATE:** October 7, 2020

<b>SUBJECT:</b>	<b>Election Day Free Fare on Tuesday, November 3<sup>rd</sup>, 2020</b>
<b>AGENDA ITEM TYPE:</b>	<b>Service and Fare Approvals</b>
<b>RECOMMENDATION:</b>	Approve fare-free transit on General Election Day, November 3, 2020.
<b>BACKGROUND:</b>	The General Election Day will be held on Tuesday, November 3 <sup>rd</sup> , 2020. Various transit agencies throughout the country provide fare-free transit to provide access to a registered voter wishing to travel to their respective polling station and cast their vote.
<b>DISCUSSION:</b>	To provide a mobility option for registered voters to access their polling place, UTA staff is presenting to the Board the option to offer free public transit on the General Election Day on November 3, 2020. Staff will present information on providing free fares across the UTA transit lines including bus, TRAX and rail. If the Board approves the fare-free transit on Election Day, the Marketing and Communications team will move forward on the promotion.
<b>ALTERNATIVES:</b>	The Board could choose not to offer free fares on November 3, 2020.
<b>FISCAL IMPACT:</b>	The estimated fiscal impact of the free fare promotion on election day is a fare revenue loss of approximately \$48,000. This was calculated by using the data collected for the fiscal impact of the Trip Reduction Program approved in January. It is adjusted for the decrease in revenue due to COVID-19. It excludes contract revenue for partner pass programs.
<b>ATTACHMENTS:</b>	None