

CONTRACT COVER PAGE

<b>Contract Number:</b> 0000001631 <b>Version:</b> 1 <b>Desc:</b> MAY StateSafetyOversight Match
<b>Supplier Name:</b> STATE OF UTAH - <i>Department of Transportation</i>
<b>Comments:</b> MAY-Interlocal- UTA to act as the State Safety Oversight agency for the light rail transit system, the Federal Transit Administration will pay 80% of the SSO program, leaving a 20% match to be paid by an entity independent of the light rail transit system being overseen. Salt Lake County will meet the 20% match which will be calculated by UDOT using the ratio in Section 1.b. County to request and pay the amounts necessary to meet costs associated with the SSO program for that fiscal year from the State Tax Commission and State Treasurer by 12/31 of each year. Term to 12/31/2031, may terminate sooner with 1 year written notice
<b>Contract Amount:</b> \$0.00
<b>Agency Name:</b> Mayor Administration
<b>Period Performance from</b> 8/16/2017 to 12/31/2031
<b>Procurement Type:</b> EXI Exempt Interlocal <b>Reason Code:</b>
<b>Buyer:</b> MHicks

SALT LAKE COUNTY, UTAH

RESOLUTION NO. 5247

August 22, 2017

**A RESOLUTION OF THE COUNTY COUNCIL OF SALT LAKE COUNTY APPROVING AND AUTHORIZING EXECUTION OF AN INTERLOCAL COOPERATION AGREEMENT BETWEEN SALT LAKE COUNTY AND THE UTAH DEPARTMENT OF TRANSPORTATION (UDOT) FOR THE ANNUAL PAYMENT OF COUNTY SALES AND USE TAXES TO UDOT TO HELP UDOT MEET A 20% FEDERAL MATCH REQUIREMENT FOR COSTS OF STATE SAFETY OVERSIGHT ACTIVITIES RELATING TO LIGHT RAIL WITHIN SALT LAKE COUNTY**

**RECITALS**

WHEREAS, Salt Lake County (the "County") and the Utah Department of Transportation (the "UDOT") are "public agencies" as defined by the Utah Interlocal Cooperation Act, Utah Code Ann. §§ 11-13-101 et seq. (the "Cooperation Act"), and, as such, are authorized by the Cooperation Act to enter into this Agreement to act jointly and cooperatively on the basis of mutual advantage in order to provide facilities in a manner that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities; and

WHEREAS, Congress enacted the Move Ahead for Progress in the 21<sup>st</sup> Century Act, which included provisions modifying the manner in which states and the Federal Transit Administration ("FTA") work together to ensure the safety of rail fixed-guideway transit systems—i.e., light rail transit systems—in the United States, codified as 49 U.S.C. § 5329; and

WHEREAS, the FTA has issued rules, 49 C.F.R. Part 674, implementing regulations pertaining to safety oversight of rail fixed-guideway transit systems; and

WHEREAS, the Utah Transit Authority ("UTA") operates a light rail transit system in Utah; and

WHEREAS, 49 U.S.C. § 5329 requires that each state with a light rail transit system designate a State Safety Oversight ("SSO") agency that is a legal entity to oversee such system, and

WHEREAS, 49 U.S.C. § 5329 requires, among other things, that the SSO agency be legally and financially independent of the light rail transit system it oversees; and

WHEREAS, Utah Code Ann. § 72-1-214 designates UDOT as the SSO agency to oversee the light rail transit system operated by UTA; and

WHEREAS, 49 U.S.C. § 5329 allows the FTA to pay up to 80% of the reasonable costs of an SSO program, leaving a 20% match to be paid by an entity independent of the light rail transit system being overseen; and

WHEREAS, Utah Code Ann. § 72-1-214 permits a county, city, or town with light rail transit system service to request local option transit sales tax in accordance with Utah Code Ann. § 59-12-2206 in the amount requested by UDOT to meet the 20% match requirement for costs of SSO activities; and

WHEREAS, UDOT and the County now desire to enter into the Interlocal Cooperation Agreement attached hereto as **ATTACHMENT A** (the “Interlocal Agreement”) wherein the County agrees, pursuant to Utah Code Ann. § 59-12-2206, to annually pay to UDOT—from revenues collected from a sales and use tax imposed by the County under Title 59, Chapter 12, Part 22 of the Utah Code—the amount necessary to meet the 20% match requirement for costs of SSO activities under 49 U.S.C. § 5329 for a 15-year period commencing in year 2017 and ending in year 2031; and

WHEREAS, the County Council believes that its contribution and assistance under the Agreement will contribute to the prosperity, peace, and comfort of Salt Lake County residents;

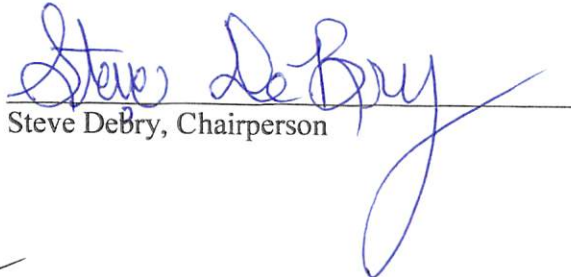
#### **RESOLUTION**

NOW, THEREFORE, IT IS HEREBY RESOLVED, by the County Council of Salt Lake County:

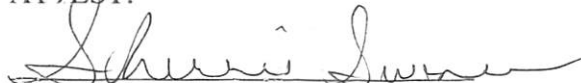
1. That the Interlocal Agreement between Salt Lake County and UDOT is approved, in substantially the form attached hereto as **ATTACHMENT A**, and that the Salt Lake County Mayor is authorized to execute the same.
2. That the Interlocal Agreement will become effective as stated in the Interlocal Agreement.

*[The balance of this page was intentionally left blank – Signature page follows]*

APPROVED AND ADOPTED in Salt Lake City, Salt Lake County, Utah, this 22nd  
day of August, 2017.

  
Steve DeBry, Chairperson


ATTEST:

  
Sherrie Swensen  
Salt Lake County Clerk

Voting:

Council Member Bradley	<u>"Aye"</u>
Council Member Bradshaw	<u>"Aye"</u>
Council Member Burdick	<u>Absent</u>
Council Member DeBry	<u>"Aye"</u>
Council Member Granato	<u>Absent</u>
Council Member Jensen	<u>"Aye"</u>
Council Member Newton	<u>"Aye"</u>
Council Member Snelgrove	<u>"Aye"</u>
Council Member Wilson	<u>"Aye"</u>

APPROVED AS TO FORM:

  
Digitally signed by  
Stephen Barnes  
Date: 2017.08.15  
11:25:38 -06'00'

Deputy District Attorney

**ATTACHMENT A**  
**Interlocal Cooperation Agreement between Salt Lake County and UDOT**

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## INTERLOCAL COOPERATION AGREEMENT

This Interlocal Cooperation Agreement (this "Agreement") is made and entered into this 24<sup>th</sup> day of August, 2017 between Salt Lake County (the "County") and the Utah Department of Transportation ("UDOT"). The parties to this Agreement are sometimes referred to collectively as the "Parties" and any may be referred to individually as a "Party," all as governed by the context in which such words are used.

### WITNESSETH:

WHEREAS, the County and UDOT are public agencies as defined by Title 11, Chapter 13 (the "Interlocal Act") of the Utah Code Annotated 1953, as amended, and are authorized by the Interlocal Act to cooperate on a mutually advantageous basis and as necessary to promote the general welfare of the State of Utah; and

WHEREAS, Congress enacted the Move Ahead for Progress in the 21<sup>st</sup> Century Act, which included provisions modifying the manner in which states and the Federal Transit Administration ("FTA") work together to ensure the safety of each rail fixed-guideway transit system ("light rail transit system") in the United States, codified as 49 U.S.C. § 5329; and

WHEREAS, the FTA has issued rules, 49 C.F.R. Part 674, implementing regulations pertaining to safety oversight of rail fixed-guideway transit systems; and

WHEREAS, the Utah Transit Authority ("UTA") operates a light rail transit system in Utah; and

WHEREAS, 49 U.S.C. § 5329 requires that each state with a light rail transit system designate a State Safety Oversight ("SSO") agency that is a legal entity to oversee such system, and

WHEREAS, 49 U.S.C. § 5329 requires, among other things, that the SSO agency be legally and financially independent of the light rail transit system it oversees; and

WHEREAS, Utah Code Ann. § 72-1-214 designates the Utah Department of Transportation ("UDOT") as the SSO agency to oversee the light rail transit system operated by UTA; and

WHEREAS, UDOT is a separate legal entity and is financially independent from UTA and its light rail transit system; and

WHEREAS, the FTA will annually review and approve the SSO program work plan submitted by UDOT; and

WHEREAS, 49 U.S.C. § 5329 allows the FTA to pay up to 80% of the reasonable costs of an SSO program, leaving a 20% match to be paid by an entity independent of the light rail transit system being overseen; and

WHEREAS, Utah Code Ann. § 72-1-214 permits a county, city, or town with light rail transit system service to request local option transit sales tax in accordance with Utah Code Ann. § 59-12-2206 in the amount requested by UDOT to meet the 20% match requirement for costs of SSO activities;

NOW, THEREFORE, in reliance on the stated 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. By October 1 of each year for the next 15 years, and commencing with year 2017 and ending with year 2031, UDOT will notify the County of:
  - a. The estimated amount necessary to meet the 20% match required for costs of SSO work plan program activities conducted in that federal fiscal year.
  - b. The costs calculated by UDOT in paragraph 1.a. will be equivalent to the ratio of miles of the light rail transit system in Salt Lake County and mileage of the light rail transit system statewide.
  - c. Unused funds submitted by the County in previous years shall be credited to the County for purposes of determining the match requirement in paragraph 1.a.
  - d. Subject to Section 2, no later than December 31 of each year, the County will request from the Utah State Tax Commission and the Utah State Treasurer in accordance with Utah Code Ann. § 59-12-2206(5)(b) and pay to UDOT the amounts identified in paragraph 1.a. necessary to meet costs associated with the SSO program for that fiscal year.
2. Notwithstanding Paragraph 1.d., the County will have no obligation to pay the amounts identified in Paragraph 1a, above, if and to the extent the County is unable to make such payment from revenues collected from a sales and use tax imposed by the County under Section 59-12-2214 of the Utah Code either because:
  - a. the County's request for such revenue under Subsection 59-12-2206(5)(b), or the County's use of such revenue under Subsection 72-1-214(6) and/or this Agreement, is held to be unlawful by a court of competent jurisdiction or as a result of legislative or administrative action;

- b. the County's request for such revenue under Subsection 59-12-2206(5)(b), or the County's use of such revenue under Subsection 72-1-214(6) and/or this Agreement, is deemed to violate an existing agreement to which the County is a party; or
- c. the County's request for such revenue under Subsection 59-12-2206(5)(b) is denied by the Utah State Tax Commission or the Utah State Treasurer.

The parties agree that in no event shall the County be required to make a payment to UDOT from revenues other than revenues collected within Salt Lake County from a sales and use tax imposed by the County under Section 59-12-2214 of the Utah Code and, more specifically, the portion of such revenues intended for expenditure "to fund a system of public transit" under Subsection 59-12-2214(3)(a) of the Utah Code.

- 3. Annually and upon request of the County, UDOT will provide a status report to the Salt Lake County Council on the safety of the light rail transit system and an accounting of expenditures associated with the 20% match provided by the County. UDOT agrees to maintain its books and records in such a way that any funds received by UDOT under this Agreement will be shown separately on UDOT's books. UDOT shall maintain records adequate to identify the use of the funds provided under this Agreement for the purposes specified in this Agreement. UDOT shall make its books and records available to the County at reasonable times.
- 4. Upon request of the County, the report in paragraph 3 may be provided by UDOT in writing or in-person.
- 5. The County and UDOT acknowledge that major, unforeseen events may occur, such as serious crashes or major natural events for which UDOT may incur extraordinary expenses. If such an event occurs, the County and UDOT will make best efforts to share necessary information to determine the amount of extra expenses that need to be reimbursed to UDOT for SSO oversight activities.
- 6. In satisfaction of the requirements of the Interlocal Cooperation Act, and in connection with this Agreement, the Parties agree:
  - a. This Agreement shall be authorized by a resolution of the Legislative body of the County and the executive director of UDOT, all as required by section 11-13-202.5 of the Interlocal Act;
  - b. This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each Party, pursuant to section 11-13-202.5 of the Interlocal Act;



- c. A duly executed original counterpart of this Agreement shall be filed with the keeper of records of each Party, pursuant to section 11-13-209 of the Interlocal Act;
- d. Except as otherwise specifically provided herein, each Party shall be responsible for its own costs of any action performed pursuant to this Agreement, and for any financing of such costs;
- e. This Agreement shall take effect upon execution by the Parties.
- f. As provided in section 11-13-209 of the Interlocal Act, the Parties agree that UDOT shall cause a notice of this Agreement to be published in the Deseret News and the Salt Lake Tribune, which are hereby designated by the County as the official newspapers for all publications made under the Interlocal Act. Any person in interest may contest the legality of this Agreement for thirty (30) days after the publication of the Notice of Agreement for any cause whatsoever. This notwithstanding, no Party intends by this Agreement to waive any provision of the Utah Governmental Immunity Act or any other privilege or immunity from suit. After the thirty (30) days have passed, no one may contest the regularity, formality, or legality of this Agreement or any action performed under the authority of this Agreement for any cause whatsoever.

7. Governmental Immunity, Liability, and Indemnification.

- a. Governmental Immunity. Both Parties are governmental entities under the Governmental Immunity Act of Utah, Utah Code Ann. §§ 63G-7-101 et seq. (the "Immunity Act"). Neither Party waives any defenses or limits of liability available under the Immunity Act and other applicable law. Both Parties maintain all privileges, immunities, and other rights granted by the Immunity Act and all other applicable law.
- b. Liability and Indemnification. There are no indemnity obligations between the Parties. Subject to and consistent with the terms of the Immunity Act, the County and the University agree to be liable for their own negligent acts or omissions, or those of their authorized employees, officers, and agents while engaged in the performance of the obligations under this Agreement, and neither the County nor UDOT will have any liability whatsoever for any negligent act or omission of the other Party, its employees, officers, or agents.

8. Termination for Convenience. County reserves the right to terminate this Agreement, in whole or in part, at any time whenever County determines, in its sole discretion, that it is in the County's interest to do so. If County elects to exercise this right, County shall provide written notice to UDOT at least one (1) year prior to the date of termination for convenience, but in no case shall such notice occur later than September 30 for the Agreement to terminate prior to the payment cycle beginning

October 1 of the following year. For example, if the County provides notice to UDOT on September 30, 2022, the Agreement will terminate on September 30, 2023 and the County will have no obligation to make a payment to UDOT for the payment cycle beginning on October 1, 2023. Moreover, subject to the foregoing, the Parties agree that the County's obligation to pay the amounts identified in Paragraph 1a to UDOT each year is subject to and conditioned upon appropriation by the County Council each year. Furthermore, UDOT agrees that the County's termination for convenience will not be deemed a termination for default nor will it entitle UDOT to any rights or remedies provided by law or this Agreement for breach of contract by the County or any other claim or cause of action.

9. This Agreement shall be amended, changed, modified, or altered only by an instrument in writing which shall be (a) approved by a resolution of the governing body of the County, the Chairman of the Commission and the executive director of UDOT; (b) executed by a duly authorized official of each of the Parties; (c) submitted to an attorney for each party that is authorized to represent said Party for review as to proper form and compliance with applicable law, pursuant to section 11-13-202.5 of the Interlocal Act; and (d) filed with the official records of each Party.
  
10. This Agreement may be executed in counterparts by each of the Parties. In such event, a duly executed original counterpart shall be filed with the keeper of records of each Party pursuant to the Interlocal Act.
  
11. Any notice required or permitted to be given hereunder shall be deemed sufficient if given by a communication in writing, and shall be deemed to have been received (a) upon personal delivery or actual receipt thereof, or (b) within three days after such notice is deposited in the United States mail, postage prepaid, and certified and addressed as follows:

Salt Lake County:	County Mayor 2001 South State, N2-100 Salt Lake City, UT 84190
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(copy to: )	Salt Lake District Attorney 200 South State S3-600 Salt Lake City, UT 84190
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UDOT:	Executive Director Utah Department of Transportation P.O. Box 141265 4501 South 2700 West Salt Lake City, UT 84114-1265
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12. This Agreement contains the entire agreement among the Parties with respect to this subject, and no statements, promises, or inducements made by any Party or

agent for any Party that are not contained in this written Agreement shall be binding or valid.

13. If any provision hereof shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case because it conflicts with any other provision or provisions hereof or any constitution or statute or rule or public policy, or for any other reason, such circumstance shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable, provided that the fundamental terms and conditions of this Agreement remain legal and enforceable.

The invalidity of any one or more phrases, sentences, clauses, or paragraphs herein contained shall not affect the remaining portions hereof, or any part thereof, provided that the fundamental terms and conditions of this Agreement remain legal and enforceable.

*[The balance of this page was left blank intentionally – Signature page follows]*

IN WITNESS WHEREOF, the Parties have subscribed their names and seals the day and year first above written.

**SALT LAKE COUNTY**

By: Erin Litvack  
Name: Erin Litvack  
Title: Deputy Mayor / CAO

Approved as to Form:

Stephen Barnes

Digitally signed by Stephen  
Barnes  
Date: 2017.08.15 11:25:56 -06'00'

Deputy Salt Lake County District Attorney

**UTAH DEPARTMENT OF TRANSPORTATION**

By: Carlos Braceras  
Name: Carlos Braceras  
Title: Executive Director

Approved as to Form:

Palmer  
Assistant Attorney General

[Signature]  
CONTRACT ADMINISTRATOR  
COMPTROLLERS OFFICE