

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE UTAH TRANSIT  
AUTHORITY ESTABLISHING THE TERMS AND CONDITIONS OF  
EMPLOYMENT FOR EXECUTIVE DIRECTOR JAY FOX**

R2021-11-03

November 19, 2021

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 ("Act"); and

WHEREAS, the Act provides that the Authority's Board of Trustees shall appoint an Executive Director based on an individual's qualifications, with particular emphasis on experience in or knowledge of accepted practices with respect to the duties of the office; and

WHEREAS, Jay Fox has a Bachelor of Science degree and a Juris Doctorate degree from Rutgers University; and

WHEREAS, Mr. Fox has worked for the Southeastern Pennsylvania Transportation Authority since 2019 in the roles of Deputy General Counsel and as Chief Transformation Officer; and

WHEREAS, prior to his employment at the Southeastern Pennsylvania Transportation Authority, Mr. Fox worked as a Senior Director for Host Railroads at Amtrak, as Regional Counsel and Acting Assistant Chief Counsel for Litigation and Regional Operations for the Federal Transit Administration, as Agency Counsel for the Federal Aviation Administration, and as a private practice attorney; and

WHEREAS, the Board of Trustees has determined that Mr. Fox's education and significant transit-related experience qualify him to serve as the Authority's Executive Director and desires to appoint him to that position; and

WHEREAS, the Board of Trustees desires to establish Mr. Fox's annual base salary at \$265,000 and desires to establish all other terms and conditions of Mr. Fox's employment in the Executive Director's Employment Agreement attached hereto as Exhibit A.


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

1. That the Board of Trustees hereby appoints Jay Fox as the Authority's Executive Director effective January 10, 2022.

R20201-11-03

2. That the Board of Trustees establishes Mr. Fox's annual base salary at \$265,000 and establishes all other terms and conditions of Mr. Fox's employment in the Executive Director's Employment Agreement attached hereto as Exhibit A.
3. That the Board of Trustees hereby authorizes exceptions to UTA Corporate Policy No. 6.5.5 – Relocation, No. 6.7.4.1 – Reductions in Force of Administrative Employees and Severance Pay, and UTA Policy No. UTA.05.02 – Paid Time Off – Administrative Employees, to accommodate the terms and conditions set forth in the Executive Director's Employment Agreement.
4. That the members of the Board of Trustees are authorized to execute the Executive Director's Employment Agreement attached hereto as Exhibit A.
5. That the Board hereby ratifies any and all actions previously taken by the Authority's management, staff, and legal counsel to give effect to this Resolution.
6. That the corporate seal be attached hereto.

Approved and adopted this 19<sup>th</sup> day of November 2021.

  
Carlton Christensen, Chair  
Board of Trustees

ATTEST:

  
Secretary of the Authority



(Corporate Seal)

Approved As To Form:

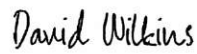
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Legal Counsel

Exhibit A

Executive Director's Employment Agreement

## EXECUTIVE DIRECTOR EMPLOYMENT AGREEMENT

This Employment Agreement (“Agreement”), entered into on November 19th, 2021, between the Utah Transit Authority, a large public transit district established under Utah law (the “Authority”) and Jay Fox (“Employee”), with an effective date of the January 10th, 2022.

### BACKGROUND

- A. Authority is a large public transit district organized under and authorized to operate transit services in accordance with the provisions of the Utah Public Transit District Act; and
- B. Authority wishes to employ, engage, and hire Employee, as an executive employee of Authority and a member of the executive leadership team employed of the Authority.

### TERMS AND CONDITIONS

Now, therefore, for good and valuable consideration and the mutual promises contained herein, it is agreed by the parties hereto as follows:

1. **Duties and Reporting Relationship.** Authority hereby employs, engages, and hires Jay Fox as Authority’s Executive Director. Employee accepts and agrees to said hiring and employment by Authority. Employee agrees to perform and assume any and all duties and responsibilities appropriate to the position of Executive Director that may be assigned to him by the Board of Trustees. Employee will take all reasonable, lawful, and ethical direction from the Board of Trustees. Unless otherwise authorized by the Board of Trustees, Employee will devote his full-time energy and skill to the performance of his duties for Authority and for the benefit of Authority, reasonable vacations and absences because of illness excepted. Furthermore, Employee will exercise due diligence and care in the performance of his duties under this Agreement and Utah law.
2. **Employment Period.** The period of employment for Employee shall be as follows:
  - a. **Initial Term Plus Two One-Year Options** Authority shall employ Employee for the duties as set forth in Section 1 for the period commencing on January 10, 2022, and ending on January 9, 2025, plus two additional one-year options to be exercised in UTA’s sole discretion, unless sooner terminated in accordance with the provisions of this Agreement.
  - b. **Renewal.** Once the Initial Term plus both one-year options have been successfully completed, this Agreement will be automatically renewed for additional one-year periods commencing on each January 10 and ending on the following January 9 unless either party serves notice of desire to terminate or modify this Agreement as it applies during the Renewal Term. Such notice must be given at least ninety (90) days before the end of the Initial Term, any exercised options, or the current Renewal Term, as applicable. The period of time commencing as of January 10, 2022, and ending on the effective date of the termination of employment of Employee under this or any successor agreement shall be referred to as the “Employment Period”.

3. **Compensation.** Authority shall compensate Employee as follows:
  - a. **Base Salary.** Authority shall pay Employee a base salary at the rate of \$265,000 per year, payable in equal biweekly installments. Employee's base salary shall be reviewed for increases on an annual basis, in conjunction with the annual performance review detailed in section 3.b. Adjustments to Employee's base salary shall be at a minimum rate of 3% for years two through the end of the Period of Employment, assuming acceptable performance. If raises exceed the minimum amount, they will be memorialized in written form and attached as an amendment hereto. Thereafter, such adjusted base salary shall be incorporated as if fully set forth herein.
  - b. **Performance Review.** On an annual basis, Authority shall set strategy priorities, goals, and objectives for the Employee to accomplish in the following year. At least yearly, within sixty (60) days of Employee's anniversary date, the Board of Trustees shall conduct a formal performance review with Employee. This review will provide specific feedback on accomplishments of yearly goals as well as any other items related to Employee's performance. The review will be submitted in writing and will allow for response from Employee. The performance review will specify specific accomplishments and provide any feedback necessary to adjust performance. This review will be the basis for providing the minimum annual salary adjustment referenced in section 3.a.
4. **Retirement Plans.** Employee will select to participate in Authority's Defined Benefit plan or the Executive Defined Contribution Plan (401(a)). Employee will make plan selection within thirty (30) days of employment. Employee will also be eligible to participate in Authority's 457 Deferred Compensation plan consistent with the benefit afforded to all Authority employees.
5. **COBRA Reimbursement.** Authority agrees to reimburse Employee for continuation of health coverage during the eligibility waiting period, for up to two months of COBRA expenses. Reimbursement will be at a rate of \$1798 per month for medical coverage, \$88 per month for dental coverage, and \$401 per month for prescription coverage. These rates are based on the current 2021 plan year costs. If the 2022 cost of COBRA increases, Authority agrees to pay at the 2022 rate.
6. **Other Benefits.** Employee also shall be entitled to the following fringe benefits:
  - a. Employee shall be eligible for the standard Authority benefits package, including but not limited to medical, dental, vision, life, long-term disability, sick leave, executive vacation schedule, holiday pay, and employee assistance program.
  - b. Employee will be credited 11 years of service on Authority's vacation accrual schedule set forth in UTA Policy UTA.05.02 Paid Time Off - Administrative Employees UTA Policy.
7. **Relocation Expenses.** Authority agrees to pay qualified Relocation Expenses related to Employee and family relocation as described below:
  - a. With proper receipts, Authority will reimburse Employee as follows:
    - i. Move of household goods through a moving company or freight company.
    - ii. Move of one automobile using an auto transport company.
    - iii. Temporary housing for up to two months.

- iv. Travel expenses related to two round trips, or four total one-way flights, for Employee and spouse to Salt Lake City, to include airfare, lodging, transportation, and reasonable meals. Employee will be provided with up to five days of paid time off to handle relocation matters.
  - v. Total relocation expenses, excluding five days of paid time off, will not exceed \$20,000.
  - vi. Unless otherwise agreed to by the parties, if the employee elects to voluntarily separate employment with the Authority within twenty-four (24) months of the commencement of the term of this agreement, as described in Paragraph 2a, above, the employee shall reimburse the Authority for all Relocation Expenses paid by the Authority to the Eligible Employee.
  - vii. For the avoidance of doubt, all the expenses described in Paragraphs 7(a)(i) through 7(a)(iv). will be considered as Relocation Expenses potentially subject to repayment as described above.
8. **Business Expenses.** Authority will reimburse Employee, in accordance with Authority policies, for any and all necessary, customary, and usual expenses properly receipted and reasonably incurred by Employee on behalf of Authority.
9. **Termination by Authority.** This Agreement may be terminated by Authority as follows:
  - a. **Right of Termination by Authority.** Employee is an “at-will” employee. Authority retains the right to terminate the employment of Employee and this Agreement for any or no reason.
  - b. **Procedure for Termination or Reduction in Salary.** If Authority terminates Employee’s employment, either with or without cause, it shall follow the procedure as proscribed in UTAH CODE § 17B-2a-811.1. (3) thru (5). (2019).
  - c. **Termination by Authority for Cause.** Employee’s employment by Authority may be terminated for “Cause” upon the occurrence of any one of the events enumerated below. In the event Employee is terminated upon the occurrence of one of the following enumerated events, Employee is not entitled to any Severance Pay or Insurance Benefits but is entitled to all standard benefits that are normally available to a terminating or disabled administrative employee. The following events constitute termination by Authority “for Cause:”
    - i. **Employee’s Death.** Upon the death of Employee, employment and Authority shall terminate effective as of the date of death; or
    - ii. **Physical or Mental Disability of Employee.** Upon notice rendered to Employee by Authority, effective thirty (30) days from the date of such notice, in the event Employee shall become physically or mentally disabled to the extent of being unable to perform the essential functions of his job, after afforded reasonable accommodations, for a period of one hundred eighty (180) successive days during any period of twelve (12) consecutive months; or
    - iii. **Criminal Conduct.** Employee is convicted of or pleads guilty or *nolo contendere* to (1) a felony, or (2) any crime related to his employment or involving moral turpitude; or
    - iv. **Fraud, Malfeasance, or Abuse of Office.** Employee commits any act of fraud, malfeasance, of abuse of office or position; or

- v. **Violation of Agreement or UTA Ethics Policy.** Employee fails to cure or resolve any curable breach of this Agreement or Authority's UTA.01.01 Ethics UTA Policy, Ethics Reporting, and Code of Conduct, and/or its successor policies, within thirty (30) days after receiving written notice from Authority or its Board of Trustees and after being provided with an opportunity to hear and respond to any such complaints or charges; or
  - vi. **Embezzlement.** Employee embezzles funds or assets from Authority as determined by the Board of Trustees and/or its Internal Auditor and after being provided with an opportunity to hear and respond to any such complaints or charges of embezzlement; or
  - vii. **Insubordination.** Employee continually and willfully fails to obey a lawful, ethical, and reasonable direction of the Board of Trustees during the term of this Agreement and extensions thereof, and after being given written notice of such failure, does not cure the act(s) of insubordination within thirty (30) days.
- d. **Termination by Authority without Cause.** If Employee is terminated due to lack of work, lack of funds, elimination of position, reorganization, or for any other termination without Cause, or if the Agreement is not renewed without Cause, Employee shall be entitled to Severance Pay and Insurance Benefits in addition to all standard benefits that are normally available to a terminating administrative employee. Any payments made by Authority to Employee pursuant to these Severance Pay and Insurance Benefits provisions shall be subject to such withholding as required by law. The Severance Pay and Insurance Benefits that will be paid if Employee is terminated without Cause are the following:
- i. **Severance Pay.** Employee's salary in effect at the time of termination shall continue for six months following the date of termination. The six-month period during which Employee's salary is continued is referred to as the "Severance Period." This "Severance Pay" will be paid on a bi-weekly basis and will begin only after all accrued vacation leave has been used by Employee.
  - ii. **Insurance Benefits:** All group benefits will end the last day of the month in which Employee is terminated. COBRA will be offered, and, if accepted, UTA will continue to pay the cost paid under the active group plan towards health insurance benefits, to include medical and dental coverage, under COBRA. Employee will be responsible for the employee portion of the premium plus the 2% COBRA administrative fee. UTA will continue to pay premiums toward COBRA coverage for the total severance eligibility period, which shall be the number of weeks of Severance Pay awarded or until Employee is eligible for other health insurance, whichever is shorter. At the end of the insurance premium payment period by UTA, Employee may continue coverage under COBRA pursuant to all applicable regulation.
10. **Termination by Employee.** Employee shall have the right to terminate this Agreement at any time, for any reason. Employee agrees to provide Authority with thirty (30) days prior written notice of any such termination. Authority's obligation to pay Employee's base salary pursuant to Section 3 shall cease as of Employee's last day of work.

11. **Effect of Termination.** Upon the proper termination of this Agreement by Authority for any reason whatsoever, or upon the termination of this Agreement by Employee, this Agreement shall thereupon be and become void and of no further force or effect, except that any payments due pursuant to the provisions of this Agreement for services rendered prior to the termination shall be made as provided in this Agreement.
12. **Proprietary Information.** In the event of a termination of this Agreement by either Authority or Employee, Employee shall comply with the following with respect to proprietary information:
- a. **Return of Proprietary Information.** Upon termination of this Agreement for any reason, Employee shall immediately turn over to Authority any "Proprietary Information," as defined below. Employee shall have no right to retain any copies of any material qualifying as Proprietary Information for any reason whatsoever after termination of his employment hereunder without the express written consent of Authority.
  - b. **Non-Disclosure.** It is understood and agreed that, in the course of his employment hereunder and through his activities for and on behalf of Authority, Employee will receive, deal with, and have access to Authority's Proprietary Information and that Employee holds Authority's Proprietary Information in trust and confidence for Authority. Employee agrees that he shall not, during the term of this Agreement or thereafter, in any fashion, form or manner, directly or indirectly, retain, make copies of, divulge, disclose or communicate to any person, in any manner whatsoever, except when necessary or required in the normal course of Employee's employment hereunder and for the benefit of Authority or with the express written consent of Authority, any of Authority's Proprietary Information or any information of any kind, nature or description whatsoever concerning any matters affecting or relating to Authority's business.
  - c. **Proprietary Information Defined.** For purposes of this Agreement, "Proprietary Information" means information which is confidential, proprietary or secret which is used in or in any way relates to the business or operations of Authority, including the following: business strategies, marketing plans, financial information, forecasts, and personnel information; any and all data or information involving the techniques, programs, methods or contacts employed by Authority in the conduct of its business; any lists, documents, manuals, records, forms or other materials used by Authority in the conduct of its business; any descriptive materials describing the methods and procedures employed by Authority in the conduct of its business; any and all information having independent economic value to Authority that is not generally known to, and not readily ascertainable by proper means by, persons who can obtain economic value from its disclosure or use; and any information which Employee has a basis to believe is considered confidential, proprietary or secret to or by Authority. The term "list", "document", or their equivalent, as used in this Section, are not limited to a physical writing or compilation but also include any and all information whatsoever regarding the subject matter of the "list" or "document" whether or not such compilation has been reduced to writing.
13. **Termination of Prior Agreements.** This Agreement terminates and supersedes any and all prior agreement and understandings, whether oral or written, express or implied, between the parties with respect to employment or with respect to the compensation of Employee by Authority.
14. **Assignment.** This Agreement is personal in its nature and neither of the parties hereto shall, without the consent of the other, assign or transfer this Agreement or any rights or obligations hereunder; provided that, in the event of the merger, consolidation or transfer or sale of all or substantially all of the assets of Authority with or to any other individual or entity, this Agreement

shall, subject to the provisions hereof, be binding upon and inure to the benefit of such successor and such successor shall discharge and perform all the promises, covenants, duties and obligations of Authority hereunder.

15. **Governing Law.** This Agreement and the legal relations thus created between the parties hereto shall be governed by and construed under and in accordance with the laws of the State of Utah.
16. **Entire Agreement.** This Employment Agreement embodies the entire agreement of the parties respecting the matters within its scope and may be modified only in writing.
17. **Waiver.** Failure to insist upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such term, covenant, or condition, nor shall any waiver or relinquishment of, or failure to insist upon strict compliance with, any right or power hereunder at any one or more times be deemed a waiver or relinquishment of such right or power at any other time or times.
18. **Severability.** In the event that a court of competent jurisdiction determines that any portion of this Agreement is in violation of any statute or public policy, then only the portions of this Agreement which violate such statute or public policy shall be stricken. All portions of this Agreement which do not violate any statute or public policy shall continue in full force and effect. Further any court order striking any portion of this Agreement shall modify the stricken terms to give as much effect as possible to the intentions of the parties under this Agreement.
19. **Attorneys' Fees.** In the event of litigation by either party to enforce the terms of this Agreement, the prevailing party in such litigation shall be entitled to receive from the other party the reasonable attorneys' fees incurred, together with related reasonable costs.
20. **Counterparts.** This Agreement may be signed in counterparts, each one of which is considered an original, but all of which constitute one and the same instrument.
21. **Electronic Signatures.** Employee and Authority acknowledge and agree that this Agreement may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation, "electronic signature" shall include faxed versions of an original signature or electronically scanned and transmitted versions (e.g., via pdf) of an original signature.
22. **Notices.** Any notice required or permitted to be given pursuant to this Agreement shall be in writing, and shall be delivered personally or sent by registered or certified mail, postage prepaid, addressed as follows:  
If to Authority, to:  
  
Chair, Board of Trustees  
Utah Transit Authority  
669 W 200 S  
Salt Lake City, UT 84101

If Employee, to:

Jay Fox



Or the most recent address Employee has on file with Authority once employment commences.

UTAH TRANSIT AUTHORITY

EMPLOYEE

\_\_\_\_\_  
Carlton Christensen  
Chair, Board of Trustees  
Date: \_\_\_\_\_

\_\_\_\_\_  
Jay Fox  
Date: \_\_\_\_\_

\_\_\_\_\_  
Beth Holbrook  
Trustee  
Date: \_\_\_\_\_

\_\_\_\_\_  
Jeff Acerson  
Trustee  
Date: \_\_\_\_\_

Approved as to form:

DocuSigned by:  
  
\_\_\_\_\_  
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Assistant Attorney General  
UTA Legal Counsel