

FRONTRUNNER (FR2X) SECOND COOPERATIVE AGREEMENT

(Construction Phase of Double Track Project)

This FRONTRUNNER (FR2X) SECOND COOPERATIVE AGREEMENT (“**Agreement**”), to be effective as of August 13, 2025 (the “**Effective Date**”), is made between the Utah Department of Transportation (“**UDOT**”), an agency of the State of Utah, and Utah Transit Authority (“**UTA**”), a Utah public transit district (each a “**Party**” and collectively the “**Parties**”).

RECITALS

- A. Pursuant to Utah Code §§ 17B-2a-804 and 72-1-202, as amended, UDOT is given oversight and supervisory responsibility for fixed guideway capital development projects (as that term is defined in those sections) when they include state funding. Such projects include UDOT Project No. S-ST99(835), PIN No. 20253 and other projects PINs and numbers as needed to deliver the goals of a program to strategically double track commuter rail lines in Davis, Salt Lake, and Utah Counties, Utah (the “**Project**”, as that term is defined in the Base Agreement and as modified by Section 2 below).
- B. The Parties have entered or will enter into a number of other agreements to establish their relationship and address needs for the Project, including:
 1. The Parties have entered into a FrontRunner Cooperative Agreement effective as of August 22, 2023, to establish their basic relationship and roles and responsibilities for the Project (the “**Base Agreement**”), as amended herein and from time to time.
 2. The Parties are entering into this Agreement to establish some basic principles to govern their relationship for the following Project matters: the roles and responsibilities of the Parties during the Phase 2 Activities for the Project. This Agreement is subordinate to, subject to, and entered in furtherance of the Base Agreement.
 3. The Parties have also entered into a FrontRunner Double Track Project Funding and Reimbursement Agreement effective as of March 1, 2024 (the “**Reimbursement Agreement**”), as amended from time to time. The Reimbursement Agreement is also subordinate to, subject to, and entered in furtherance of the Base Agreement.
- C. Under the Project, UDOT, in consultation with UTA, will contract with a progressive design builder to construct in a complex rail environment on separate segments of property that are (or will be) owned or leased by UTA. The Parties are independent organizations with individual cultures and expertise, and they intend the principles that govern the Project to maximize the strengths of each organization in the delivery of the Project within the requirements of applicable law; and

- D. The Parties intend to perform their respective roles and duties in a cooperative and collaborative manner and to make good faith efforts to successfully deliver the Project in a timely and efficient manner.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals, which by this reference are incorporated into this Agreement, and for good and valuable consideration based on the mutual promises contained herein, the Parties agree as follows:

1. **AGREEMENT PURPOSE AND SCOPE.** The purpose and scope of this Agreement are as follows:
 - a. Agreement Purpose. The purpose of this Agreement is to address the Parties' roles and responsibilities related to the Phase 2 Activities for the Project.
 - b. Scope of this Agreement. The Parties agree that this Agreement is subordinate to, subject to, and entered in furtherance of the Base Agreement to address the roles and responsibilities of the Parties for the Phase 2 Activities for the Project.
 - c. Order of Precedence. First, if there is any direct conflict between the terms of this Agreement and the terms of the Base Agreement, the terms of the Base Agreement shall govern. Second, if there is any direct conflict between the terms of this Agreement and the terms of the Reimbursement Agreement, the terms of the Reimbursement Agreement shall govern (unless the Base Agreement governs under the foregoing sentence).
 - d. Future Amendments and Agreements. The Parties acknowledge that in the future they may need to enter into amendments to this Agreement, or other agreements that are consistent with this Agreement, the Base Agreement, and the Reimbursement Agreement, to address additional areas related to the Work for the Project, and the Parties agree to act in good faith in connection with negotiating and entering such amendments and agreements.
2. **DEFINITIONS.** The following definitions apply to this Agreement in addition to those which may be stated elsewhere in this Agreement or in the Base Agreement:
 - a. **"Completed Work"** means any Work for the Project that has been completed and accepted in the manner stated in this Agreement.
 - b. **"Contract Completion"** means the time when all of the following have occurred: (i) the Project has achieved Project Physical Completion; (ii) the PDB has given to UDOT all remaining required releases in connection with Project Work; and (iii) UTA has given UDOT a Project Certificate of Acceptance.

- c. **“Day” or “day”** means a calendar day, but if a period specified in this Agreement is ten (10) days or less, “day” means a working day (Monday through Friday, not including holidays) unless otherwise stated.
- d. **“Deferred Punch List”** means items of Work that UDOT and UTA agree in writing may be scheduled and performed at a time after a Segment Physical Completion, as long as those items of Work are completed before Project Physical Completion.
- e. **“Defined Portion”** means a specifically described portion of the Work that is a subpart of a Segment and can include rail and/or other appurtenances and fixtures, that may be activated in a manner that is acceptable to both UDOT and UTA in the manner described in Section 9 below. Each Defined Portion will be agreed between the PDB, UDOT, and UTA and described in the applicable work package of the Phase 2 Contract.
- f. **“Direction by UTA”** means a contractual right given to UTA to enforce the Phase 2 Contract or direct the Work of the PDB pursuant to the Phase 2 Contract and this Agreement.
- g. **“Milestone”** means any event in the Phase 2 Contract requiring a notice to proceed or similar action from UDOT to the Progressive Design Builder.
- h. **“Phase 2 Activities”** means design, construction, activation, acceptance, certification, final acceptance, handover, and warranty.
- i. **“Phase 2 Contract”** means the contract between UDOT and a Progressive Design Builder to perform the Phase 2 Activities for the Project.
- j. **“Progressive Design Builder” or “PDB,”** means a contractor competitively procured by UDOT to perform all or some of the Phase 2 Activities for the Project.
- k. **“Project”** has the following meaning, and the Parties agree that the following definition of the term “Project” applies to this Agreement, to the Base Agreement, and to all other agreements for the Project that are subject to the Base Agreement, and it replaces any definition of that term to the contrary in such agreements: “Project” means a program of work in which UDOT and UTA cooperate to strategically double track and make other improvements for commuter rail lines in Davis, Salt Lake, and Utah Counties. The Project includes the FrontRunner “Strategic Double Tracking” or “FR2X” Project (UDOT Project No. S-ST99(835) and PIN No. 20253) and other project PINs and numbers as needed to deliver the goals of the Project, and the work for the Project includes rail double tracking, rail realignment, work for stations, and related improvements, to allow UTA to alleviate congestion on FrontRunner service, increase service ridership, and increase service frequency, reliability and speed.
- l. **“Project Physical Completion”** means the time when all of the following have occurred: (i) the Project has achieved Project Substantial Completion; (ii) the Deferred

Punch List items for all Segments of the Project have been completed; (iii) UTA has received the asset list described in Section 12.b; and (iv) the PDB has given to UTA all remaining Project paperwork, including administrative notices and the warranties associated with Deferred Punch List items.

- m. **“Project Substantial Completion”** means the time when UTA gives UDOT the final Segment Certificate of Acceptance that is required for the Project and all Segments have achieved Segment Final Acceptance.
- n. **“PSS Certificate”** means the Project Safety and Security Certificate of Conformance.
- o. **“RAP”** means a Rail Activation Plan that is part of the Safety and Security Certification Plan described in Section 9 below. The purpose of the RAP is to establish the process to address technical systems’ integration testing and establish operational readiness, including review and certification. The RAP will describe the performance criteria for completion of the testing and activation, and it will also describe how satisfaction of the performance requirements will be determined to have occurred. It will also specify the systems and equipment that are subject to the RAP.
- p. **“Revenue Service”** means all track or parts of the FrontRunner System that have been tested and accepted by UTA, through the issuance of a PSS Certificate, to be safe to carry passengers.
- q. **“Segment”** means a work package of the Phase 2 Activities that may consist of multiple Defined Portion(s), and which includes the rail and all appurtenances and fixtures associated with the rail (including but not limited to crossings, gradings, erosion protections, etc.) and which may include a station (including but not limited to platforms, pedestrian bridges, elevators, and park and ride lots).
- r. **“Segment Final Acceptance”** means the time when all of the following have occurred: (i) the Segment has achieved Segment Physical Completion; (ii) the PDB has given all Segment paperwork to UTA, including as-built drawings, except for paperwork concerning Deferred Punch List items; (iii) the PDB has given to UDOT all required releases in connection with the Work for the Segment except releases in connection with Deferred Punch List items; and (iv) UTA has given UDOT a Segment Certificate of Acceptance.
- s. **“Segment Physical Completion”** means the time when all of the following have occurred: (i) all of the Segment has been placed into Revenue Service; (ii) all physical Work for the Segment has been completed except for Work items that both parties have placed on a Deferred Punch List that is signed by both parties; and (iii) at the time of signing the Deferred Punch List, UTA has given UDOT a Certificate of Segment Physical Completion.

- t. **“System Shutdown”** means a planned disruption of FrontRunner service that is needed by the Project Work and is included within the definition of “Service Interruption” pursuant to § 5.i of the Base Agreement.
 - u. **“Unplanned Service Interruption”** means an unplanned disruption of FrontRunner service caused by the Project Work and is included within the definition of “Service Interruption” pursuant to § 5.i of the Base Agreement.
 - v. **“UTA Right of Way” or “UTA ROW”** means any property that UTA owns, leases, or has otherwise obtained the right to occupy that is used in connection with the Project (regardless of whether there are additional interests held by others on such property, such as utility or railroad interests, and regardless of whether the property is shown in any Project plans or drawings).
 - w. **“Work”** means all work of every kind that is required to complete activities for the Project.
3. **PROCUREMENT AND CONTRACTS FOR CONSTRUCTION OF THE PROJECT.** The Parties have established the following roles and responsibilities related to procurement and contracting for the Phase 2 Activities for the Project in addition to those stated in the provisions of Base Agreement Sections 5.b and 5.c:
- a. Negotiation and Execution of Phase 2 Contract. The Parties have the following roles and responsibilities related to the negotiation and execution of the Phase 2 Contract:
 - i. Contracting Authority. UDOT will negotiate and enter into the Phase 2 Contract.
 - ii. Review and Comment. The Parties will jointly develop the Phase 2 Contract.
 - b. Additional Procurements. UDOT can procure other contracts as it deems necessary to complete Phase 2 Activities or other activities for the Project. UTA will have the right to provide comments on any additional procurement, including, but not limited to, procurement and contracting documents related to the Phase 2 Activities.
 - c. Right to Direction by UTA. UDOT is responsible for directing the Work of all of its contractors, including but not limited to the PDB, and UTA will have no right to provide direction under any Project contract entered by UDOT, except that UTA has the limited right to direct the Work of any Project contractor under contract with UDOT, including the PDB, as provided by UDOT in writing and in the following circumstances:
 - i. In accordance with the UTA-approved RAP, which UTA will implement directly with the PDB and in collaboration with UDOT.
 - ii. As expressly stated in the Environmental and Hazardous Substances and Waste Agreement to be signed between the Parties, or as expressly stated in

any other amendment or agreement to be signed between the Parties for the Project.

- iii. To enforce the terms and conditions of a permit granted to a Project contractor by UTA.
- iv. If Direction by UTA is necessary to protect against immediate concerns for health and safety.

UTA will not issue a stop work order to any contractor under contract with UDOT, including the PDB, except in connection with a matter allowed by this Section 3.c. If UTA determines to direct the Work of a contractor, including the PDB, under the circumstances identified in this Section 3.c, UTA will immediately notify the UDOT Project Director in writing.

4. **RIGHT OF WAY ACCESS; UTILITY LICENSES; PROGRESSION OF WORK.** The Parties shall coordinate as follows for access to UTA Rights of Way, for Work involving utilities, and for Service Interruptions, in addition to the provisions of Base Agreement Sections 5.e, 5.f, and 5.i:

- a. General. UTA controls and operates the UTA ROW where the majority of the Work will occur. UDOT and its contractors and consultants, including the PDB, will need access to the UTA ROW to construct the Project. UTA will provide UDOT and its contractors and consultants, including the PDB, access to the ROW and any additional UTA-owned or occupied property necessary for Phase 2 Activities for the Project under the requirements listed below in b-d. While it is not anticipated that UTA and its contractors will be required to access UDOT-owned property, UDOT reserves the right to require UTA to obtain a permit to access UDOT property, if applicable.
- b. UTA Permitting during the Phase 2 Contract. UDOT agrees that it and its contractors and consultants, including the PDB, will follow UTA's existing process to obtain a right of entry ("ROE") and a track access permit, both as provided on UTA's website <https://www.rideuta.com/doing-business/property-management> and the attached agreed right of entry form applicable to the Project, Form of ROE, **Exhibit B**, except that the insurance requirements in the Phase 2 Contract will apply.
- c. Utility Licenses. Whenever the PDB needs to relocate or otherwise impact a third-party utility in the ROW, the Parties will follow, and will require their respective contractors (including the PDB) to follow the UTA process for requesting or impacting a utility license, which is attached and incorporated by reference as UTA Utility License Process, **Exhibit D**.
- d. Phasing and Approach to Progression of Work. The Parties will agree on the phasing and approach to progression of the Project Work and acknowledge that operations impacts and System Shutdowns are part of the overall phasing and approach. The

Parties recognize that any disruption of FrontRunner services, whether planned or unplanned, is undesirable, and they agree that their intent is to minimize disruptions to FrontRunner services when possible. UTA and UDOT will work cooperatively with each other and the PDB to identify what operational impacts and System Shutdowns are permissible and will incorporate that expectation into the Phase 2 Contract and the Project schedule, which will identify when System Shutdowns will occur, as well as the number and duration of System Shutdowns necessary to allow for the Project to remain on schedule and within budget while reasonably impacting existing service. If changes are required, UDOT and UTA will agree on the changes in a manner consistent with Section 4(e)(3) below.

e. Planning for FrontRunner System Shutdowns. UDOT will require its contractors, including the PDB, to participate in the identification of the schedule and number and duration of planned System Shutdowns. The following are requirements related to System Shutdowns:

- 1) System Shutdowns that require a bus bridge must be identified in the baseline schedule and coordinated with UTA at least six (6) months in advance, or as otherwise agreed to allow UTA to arrange for bus service.
- 2) At least fourteen (14) days prior to any scheduled System Shutdown, the PDB will provide the following information to UDOT and UTA:
 - i. An hourly schedule of the proposed FrontRunner System Shutdown, which includes identified work crews, subconsultants, equipment, and materials needed. The hourly schedule must include adequate time for all required testing, including time for UTA to perform any final testing and pre-revenue and activation process prior to the scheduled re-opening of the segment subject to the FrontRunner System Shutdown.
 - ii. The list of materials required under (i) above includes track and system materials and the PDB must verify each item as being onsite and available.
 - iii. A testing plan that identifies all necessary tests that will be performed during the FrontRunner System Shutdown to verify that any new track or systems are ready for Revenue Service.
 - iv. All proposed software changes must have been previously submitted to UTA and finally approved by UTA.
 - v. Documentation of submission to the Federal Railroad Administration (“FRA”) of any testing plan and vital software changes for review at least ten (10) days prior to any testing, as well as any changes to the testing plan and/or vital software changes, if required by FRA.

- 3) UTA will evaluate and review the information provided by the PDB and, if reasonably satisfied with the accuracy and completeness of the information, UTA will provide approval to initiate the System Shutdown and the hourly schedule during the System Shutdown. If UTA does not approve the PDB's System Shutdown request, UTA will work with UDOT and the PDB to determine whether a work-around can be established to prevent or minimize the System Shutdown, whether other scheduling is possible without causing Project delay, and other mitigation measures that may be taken in order to find acceptable alternatives to any aspect of the PDB's information submitted in accordance with Section 4.e.2.
- f. System Shutdown Supervisor. The PDB will identify an on-site System Shutdown supervisor who will act as the point of contact with both UDOT and UTA during any System Shutdown. The System Shutdown supervisor will provide to UDOT and UTA, for the duration of the System Shutdown, regular updates that include details on the progress, schedule, and any issues that may have been identified, resolved, or are still outstanding.
- g. Extension of a System Shutdown. UDOT will require under the terms of the Phase 2 Contract that, if the PDB does not conclude, or anticipates not concluding, all the scheduled Work during a designated System Shutdown period, the PDB's on-site System Shutdown supervisor will consult with UDOT and UTA on whether to extend the System Shutdown or to defer some Work intended to be completed during the System Shutdown. UTA has final approval of extensions of System Shutdowns, which approval shall not be unreasonably withheld.
- h. Unplanned Service Interruptions. In the event of an Unplanned Service Interruption, UDOT will require under the terms of the Phase 2 Contract that the PDB immediately notify UDOT and UTA in writing of (1) the circumstances that led to the Unplanned Service Interruption, (2) the mitigation plan to remedy the circumstances that led to the Unplanned Service Interruption, and (3) the anticipated time frame for the Service Interruption. The PDB will be required to update such reporting identified in (1) through (3) above hourly for the duration of the Unplanned Service Interruption. If an Unplanned Service Interruption exceeds eight (8) hours, it will be considered a System Shutdown and the PDB will be required to submit all information required pursuant to Section 4.e for UTA approval.
- i. Reimbursable Costs of Service Interruptions and System Shutdowns. The Reimbursement Agreement and the Base Agreement govern whether UTA is entitled to reimbursement for additional incurred costs as a result of an Unplanned Service Interruption or System Shutdown.
- j. Station Construction. When a Segment contains a station, the following additional roles and responsibilities apply. In the same matter as with other Segments, UDOT is responsible for design and construction of the station and its related improvements.

UDOT will acquire and will own the real property easements and fee interests that are needed for the station's improvements. UTA will take ownership of the following station improvements at the time of Segment Final Acceptance for the Segment as provided in Section 10.e: the platform, elevators, pedestrian bridge, and fixed transit-related improvements (including tracks, signals, and other transit improvements). UDOT will retain ownership of all other station improvements, including the park and ride lot. UTA shall operate and maintain the station (including the park and ride lot) upon Segment Final Acceptance and whenever it is open to the public, and the Parties may enter additional agreements to address operations and maintenance issues.

5. SAFETY AND SECURITY PLAN PRINCIPLES: The Parties agree to the following principles concerning Project plans, to be approved by the Parties pursuant to Section 6.f, that relate to safety and security:
 - a. Safety and Security Management Plan, including Committee and SSMP. UDOT and UTA have established and agree to comply with the Safety and Security Management Plan, as amended from time to time by mutual agreement ("**SSMP**"), which is a sub-plan to the Project Management Plan, as amended from time to time by mutual agreement ("**PMP**"). The SSMP creates a Safety and Security Review Committee ("**SSRC**") and states the committee's purpose and process. The SSMP also includes a Safety and Security Certification Plan, as amended from time to time, and as further described in Section 5.c below ("**SSCP**"), which relates to Revenue Service. Pursuant to the SSMP, the PDB is required to submit for approval a Construction Safety and Security Plan.
 - b. SSMP Contents for Safety and Security Certification Plan. As part of the SSMP, UTA and UDOT agree to develop and follow the SSCP. The goal of the SSCP is to state the procedures that will allow Revenue Service to commence in a safe and secure manner through a formal program of certification. The Parties agree that they will develop the SSCP during preliminary engineering; update it at construction and testing/start-up as needed (through the SSRC) to address changes; and carry out safety and security certifications as described in the SSCP. The SSCP will also contain a System Integration and Testing Plan ("**SITP**") and a RAP, both of which will address testing and activation of the rail system pursuant to Section 9 below.
 - c. SSMP Contents for Work in Rail Corridor with Active Train Traffic. The SSMP will include requirements specific to conducting construction Work in a rail corridor with active train traffic that are in compliance with applicable requirements of the Union Pacific Railroad ("**UPRR**"). Those requirements will be consistent with the requirements in permits issued to the PDB in accordance with Section 4. Protocols for stopping work due to an imminent safety threat will be set out in the SSMP.
6. PROJECT COORDINATION AND ORGANIZATION. The Parties agree that in addition to the requirements of Section 4 of the Base Agreement, their coordination will include the following for the duration of the Project:

- a. Project Team Coordination. The roles and responsibilities of the Parties and of others for the Project are shown on the PMP's integrated project organizational chart pursuant to Base Agreement Section 4.e, and on the Roles and Responsibilities Matrix that is attached and incorporated herein as **Exhibit A**, which may be amended from time to time without amending this Agreement. The Parties further agree that the PMP and its sub-plans will designate the personnel who are acting as points of coordination between UTA and UDOT for various matters, and those individuals will act as representatives of the Parties during the Project when acting within their established scopes of authority. UTA and UDOT may develop staffing plans from time to time to address their needs for the Project, and they may amend Project documents from time to time to reflect staffing changes.
- b. Project Meetings. UDOT, in consultation with UTA, will determine who will attend regular Project meetings with the PDB.
- c. Field Engineering. UTA will respond in a reasonable timeframe and provide all relevant information requested by UDOT to ensure that the Work progresses in accordance with the schedule and the UTA Design Criteria and Requirements.
- d. Inspections. UTA will inspect the construction Work on the Project site. UTA will in a reasonable timeframe notify the Project Director, as defined in the PMP, in writing of any concerns identified during an inspection. UDOT will address UTA's concerns in a reasonable timeframe and notify UTA when the concern has been addressed for final inspection and approval by UTA.
- e. Review and Approval of Design Plans and Design Changes. The Parties will follow the workflow for design submission, review, and approvals in **Exhibit C**, Design Workflow, which is attached and incorporated herein. In addition, UTA will review and comment on a design package, progressive concept evaluation ("**PCE**"), or notice of design change, according to the timeframes identified in Exhibit C or as otherwise established by the Parties in writing, and if such timeframes are exceeded the proposed design plan will be deemed approved.
- f. Review and Approval of Construction Submittals. UDOT will include in the Phase 2 Contract a table of submittals that the PDB will be responsible to provide to UDOT, and that same table will identify which plans require the PDB to obtain approval from UTA. UTA will strive to review and comment on a submittal within ten (10) days; provided, however, that UTA will review and comment on a submittal within twenty (20) days, or the submittal will be deemed approved. UTA approvals will not be unreasonably withheld.
- g. Construction Milestone Reviews. UTA will participate in Milestone reviews, if any, between UDOT and the PDB and provide its approval following each Milestone review with the PDB.

7. **QUALITY MANAGEMENT.** The Parties shall coordinate as follows with respect to quality management:
- a. Quality Management System Plan. UDOT and UTA have established, and agree to comply with, the Quality Management System Plan, as amended from time to time by mutual agreement ("**QMSP**"), which is a sub-plan of the PMP. The purpose of this QMSP is to provide a framework for quality control and assurance measures during the Phase 2 Activities, including, but not limited to, the assignment of primary responsibility for these measures.
 - b. Access to Records. In accordance with Section 4.f of the Base Agreement, UTA and UDOT will have the right to reasonable review of each other's Project records to verify compliance in accordance with the QMSP.
 - c. Duty to Give Notice of a Nonconformance. UTA will in a reasonable timeframe give written notice to the UDOT Project Director, as defined in the PMP, of any suspected nonconformance with the QMSP. UTA will work with the integrated quality leadership team to assist UDOT with issuing a formal nonconformance report ("**NCR**") to the PDB. UTA will cooperate with UDOT as necessary to resolve any suspected nonconformance in accordance with the QMSP. UDOT will require the PDB to resolve any NCRs to UTA's reasonable satisfaction and approval in a reasonable timeframe.
8. **CHANGE MANAGEMENT.** The Parties shall coordinate as follows related to change management:
- a. Change Control. UDOT and UTA have established, and agree to comply with, the Change Control process set out in the PMP.
 - b. Use of Available Funds. Throughout the life of the Project, UDOT will communicate with the Federal Transit Administration ("**FTA**") to determine if there are available federal funds in the Project contingency that could be used for Project purposes. UDOT and UTA will mutually establish a prioritized list of Project needs that could be funded by the available federal contingency, and any available sources of matching funds, if required. The Parties agree that available federal contingency may be applied to the following to the extent eligible under federal requirements: the prioritized list of Project needs; scope items that are subject to Base Agreement Section 6.b.iii; and other items that are payable by the Project, such as Project litigation expenses.
 - c. Betterments. The Parties shall comply with the following related to Betterments in addition to Section 6.b.iii of the Base Agreement:
 - i. Policy and Procedure. Betterments are requests by a Party or by third parties that seek to improve a facility that is impacted by the Project in a manner that exceeds what is necessary for the Project ("**Betterment**"). In addition to other

applicable requirements, UDOT and UTA agree to follow the requirements of Section 6.b.iii of the Base Agreement concerning evaluating and incorporating Betterments into the Project beyond the FTA-approved scope of the Project, which requires a Party's Betterment costs to be borne by the requesting Party.

- ii. Third-Party Requests. UTA will reasonably support the decision of UDOT on any Betterment requests from third parties. Any third-party requests for Betterments will be evaluated based on whether the proposed Betterment would adversely impact the Project schedule and whether it is funded by the third party. UTA will have the right to approve or disapprove any Betterments requested by third parties that impact UTA's right of way and/or service. Such approval or disapproval shall be provided in a timely manner, and approval shall not unreasonably be withheld.
 - iii. Cost of Betterments. In accordance with the Base Agreement, Section 6.b.iii, the costs for Party requests that constitute Betterments or concurrent non-Project activities will be borne by the requesting Party.
9. **DEFINED PORTION ACTIVATION; REVENUE SERVICE.** Before UTA conducts Revenue Service on any Work that has been performed by the PDB, UTA will work directly with the PDB and conduct an activation process in the manner described below. The activation process described below is described generally, and the Parties will further specify such process (in a manner consistent with this Agreement) in the RAP.
- a. Defined Portion. The PDB will notify UDOT when a Defined Portion is ready for activation. UDOT will notify UTA, who will confirm that the Defined Portion is ready for activation under the RAP.
 - b. Activation Criteria. The performance criteria that the Defined Portion must meet to pass or fail the activation process will be identified in the RAP, except that if UTA believes additional criteria apply, UTA will identify them to the PDB and UDOT and the Parties will agree on any additional success criteria for activation.
 - c. Communication and Cooperation During Activation. The Parties agree that as part of the RAP they will establish a process to communicate direction given to the PDB about activation. However, the Parties also agree that UTA is solely responsible for determining what direction to provide to the PDB and to UDOT concerning activation. UTA has the right to provide direction directly to the PDB concerning activation, and UTA will ensure that UDOT also receives the same information. UDOT will require the PDB to work cooperatively with UTA to provide any support needed for activation. UTA and UDOT will cooperate to address any compliance concerns during testing and activation. If UTA determines that the PDB should receive direction that exceeds UTA's needs to communicate during an activation process, UTA will inform UDOT, and UDOT will provide direction to the PDB as appropriate in UDOT's discretion.

- d. Completion of Activation and PSS Certificate. UTA will conduct the activation process on a particular Defined Portion directly with the PDB and in compliance with the RAP. UTA will keep UDOT informed of its actions on a constant basis. UDOT will require the PDB to work at UTA's direction during the activation process and perform the Work needed to pass the activation process as directed by UTA. The activation process will commence at times and in locations established by UTA in UTA's notice to the PDB and UDOT. The activation process will continue until UTA, working with the PDB directly, determines that an activation process was successful for each Defined Portion. Once the activation process for the Defined Portion is complete, UTA will promptly notify UDOT in writing that the Defined Portion successfully passed the activation process, and UTA will issue a PSS Certificate to UDOT for the Defined Portion and may begin Revenue Service on the Defined Portion.
- e. Post- PSS Certificate. Following activation and commencement of Revenue Service for any Defined Portion, the Parties agree that the Phase 2 Contract will require the PDB to provide continuous monitoring of the activated Defined Portion for a period of seventy-two (72) hours and be available to respond to activation issues whenever such issues arise. The Phase 2 Contract will also require the PDB to promptly report any deficiencies in the Work to UDOT's Project Director and UTA's Manager of Quality and Construction Oversight as the PDB completes its responsibilities under the RAP, but any deficiency affecting safety must be reported immediately. The Phase 2 Contract will also require the PDB to perform additional Work as directed by UDOT (or by UTA for matters that are subject to Direction by UTA) or, in emergency circumstances, as directed by UTA with a copy to UDOT. The Parties agree that UTA will specify the PDB's monitoring activities in the RAP.
- f. Effect of PSS Certificate. UTA's issuance of a PSS Certificate for a Defined Portion signifies completion of activation and commencement of Revenue Service, and upon issuance of the PSS Certificate the Defined Portion passes to UTA's sole control and is no longer subject to control by UDOT or the PDB, or subject to having Work performed under this Agreement. UTA has full and sole control, responsibility, and liability for an activated Defined Portion. While the PDB may perform Work in the vicinity of an activated Defined Portion, the PDB will not enter an activated Defined Portion without a permit from UTA that specifies what the PDB can do within the activated Defined Portion. Before the time when an entire Segment receives Segment Final Acceptance (as defined in Section 10), UDOT or the PDB will retain all documentation for any activated Defined Portions and will make it available to UTA upon reasonable request.
- g. Removal From Revenue Service; Reactivation; Risk of Loss. If additional Work needs to be performed on a Defined Portion that was activated, UDOT and UTA will notify each other of the need to perform the Work, and the Parties will identify the following in writing: the affected Defined Portion, and a date and time when the Defined Portion shall be removed from Revenue Service. At the date and time when the affected Defined Portion is removed from Revenue Service, it will be treated as any other Work

that is subject to this Agreement. At the time when UTA desires to again conduct Revenue Service on a Defined Portion that was removed from Revenue Service, UTA will repeat the process required by this Section 9 and once again activate the affected Defined Portion before placing it into Revenue Service. Once removed from Revenue Service, risk of loss and control passes back to the Project until it is once again restored to Revenue Service at the time when an updated PSS Certificate is issued for that Defined Portion.

10. SEGMENT PHYSICAL COMPLETION AND SEGMENT FINAL ACCEPTANCE.

After UTA has issued a PSS Certificate for all Defined Portions within a Segment, the Parties agree to the following roles and responsibilities related to inspection, punch list, Segment Physical Completion and Segment Final Acceptance.

- a. Notice; UTA Inspection of a Segment; Segment Punch List. UDOT will give notice to UTA and provide a date and time for UTA's final inspection of each Segment, and UTA agrees to attend the inspection. Within ten (10) days following the inspection, UTA will provide a punch list of items to be resolved for that Project Segment.
- b. Segment Punch List Reconciliation and Deferred Punch List. If there are punch list items for a Segment, UDOT will coordinate with the PDB to resolve the punch list items within twenty (20) days. UDOT will notify UTA when the punch list items are resolved, and UTA will have twenty (20) days to verify that the punch list items are resolved to UTA's satisfaction. If UDOT and UTA determine that it is beneficial to delay the performance of some punch list items, UDOT and UTA may place those items on a Deferred Punch List and sign the Deferred Punch List. The general punch list items for a Segment must be completed before Segment Physical Completion, but items that the Parties place on a Deferred Punch List may be scheduled and performed after Segment Physical Completion as long as they are completed before Project Physical Completion.
- c. Segment Physical Completion. A Segment is at Segment Physical Completion under the Phase 2 Contract when all of the following have occurred: (i) all of the Segment has been placed into Revenue Service; (ii) except for items of Work placed on a Deferred Punch List signed by the Parties, UTA has verified that the Segment's punch list work has been completed and therefore the Work for the Segment is complete (or, if UTA does not provide that verification, the twenty (20) days for UTA's verification have passed); and (iii) UTA has issued to UDOT a Certificate of Segment Physical Completion at the time when the Parties sign a Deferred Punch List (if any), which in any case will not be later than five (5) days after the time when UTA verifies or could verify completion of the general punch list for the Segment. UDOT will notify the PDB of Segment Physical Completion, which must be acknowledged by an authorized representative of the PDB. UTA will not unreasonably withhold a Certificate of Segment Physical Completion. If UTA withholds the Certificate of Segment Physical Completion, it must provide a written explanation of its reasons

along with a written notice of its decision to withhold. The Parties may dispute such action to withhold in the manner provided in the Base Agreement.

- d. Delivery of Documents. After Segment Physical Completion, UDOT will cause the PDB to provide to UTA all relevant documents needed to operate and maintain the Segment, including, but not limited to, signal box documentation, as-builts, and manuals, except for paperwork concerning Deferred Punch List items, if any.
- e. Segment Final Acceptance. A Segment is at Segment Final Acceptance when all of the following have occurred: (i) the Segment has achieved Segment Physical Completion; (ii) the PDB has given all Segment paperwork to UTA as provided in Section 10.d; (iii) the PDB has given to UDOT all required releases in connection with the Work for the Segment (except releases in connection with Deferred Punch List items); and (iv) UTA gives UDOT a signed Certificate of Segment Final Acceptance, which constitutes UTA's final acceptance of that Project Segment, and which will not be unreasonably withheld. Upon UTA's execution of the Certificate of Segment Final Acceptance, that Segment has been handed over from UDOT to UTA, and the Warranty defined in Section 13 begins for that Segment (except the Warranty for Deferred Punch List items). UTA owns all handed over Work in every respect and UDOT no longer has any role, responsibilities, or interests of any kind for a Segment that is handed over, except for the role agreed upon in a Deferred Punch List, and except for UDOT's role in connection with Warranty or latent defect issues as provided in Section 13 below. Upon a handover, no further documentation is needed to create a transfer of ownership from UDOT to UTA for the handed over Work.
- f. Hand Over and Risk of Loss. If Deferred Punch List Work is performed on a Segment that has been handed over to UTA, and if there is loss that arises from the Deferred Punch List Work, the Project bears the risk of loss from Deferred Punch List Work. Otherwise, handed over Work is owned by UTA and neither the Project nor UDOT is responsible for a risk of loss for handed over Work. Warranty and latent defect issues are addressed directly by UTA and neither the Project nor UDOT bears a risk of loss for them (UDOT only has the role stated in Section 13).
- g. UDOT is Not the Operator. UTA is the sole operator in connection with the Project. Before activation of a Defined Portion, no operations shall occur on Project Work. After Segment Final Acceptance and handover, UTA shall be the sole owner of the handed over Project Work. For handed over Project Work, UTA shall be the sole owner, operator, and maintainer, not UDOT. UDOT only has the role agreed to in a Deferred Punch List or stated in Section 13.
- h. Mutual Release. The following shall occur automatically at the time when UTA issues a Certificate of Segment Final Acceptance for a Segment:
 - i. Both Parties shall be completely released from, and shall have no further responsibilities of any kind with regard to, the Project Work for the Segment,

except that neither Party shall be released from the requirements stated in a Deferred Punch List for the Segment that is signed by authorized representatives of both Parties, or from matters that relate to UDOT's or to UTA's role for the Segment in connection with Warranty or latent defects as provided in Section 13 below.

- ii. UTA agrees to look exclusively to UDOT's PDB contractor for relief regarding defects within the Segment which fall within the PDB contractor's warranty or contractual responsibility for correction of latent defects.
- iii. The Parties fully release and discharge each other (but not third parties) from liability for all claims related to the Project Work for the Segment, except for the following which are not released:
 - (a) Any unresolved claims concerning the Segment (not warranty or latent defect work) that are subject to Section 8 of the Base Agreement, but only if one Party gave written notice of the claim to the other Party before the Certificate of Segment Final Acceptance was issued, or gave such written notice within ninety (90) days after the certificate was issued if the claim was first discovered after the certificate was issued. If such notice is given for a claim, defenses and counterclaims are also not released.
 - (b) Items stated on a Deferred Punch List for the Segment that is signed by authorized representatives of the Parties.
 - (c) Matters for the Segment which the Parties agree to resolve after the issuance of a Certificate of Segment Final Acceptance, but only as stated in a written agreement executed by authorized representatives of the Parties.
- iv. For avoidance of doubt, the Parties affirm that in connection with any claim involving a third party, the mutual releases provided for in this Section 10.h shall remain in effect, and the Base Agreement at Section 8.c shall apply. In a third-party claim, each Party also agrees to the following: (a) that it may be joined to a suit or other action; (b) that both parties must approve either party's settlement of a third-party claim; and (c) that neither party will make any admissions against the other party.
- v. The releases contained in this Section 10.h do not require any additional documentation to take effect as of the time when UTA issues a Certificate of Segment Final Acceptance.

11. **INSURANCE.** The Parties agree that the Project's Owner Controlled Insurance Program ("**OCIP**") insurance coverage only applies to Work performed on the Project by a covered contractor and that UTA's performance of Revenue Service is not Work performed on the

Project. Both Parties may confirm the extent of OCIP coverage, and the OCIP shall only apply as stated in the OCIP policy.

12. PROJECT SUBSTANTIAL COMPLETION; PROJECT PHYSICAL COMPLETION; CONTRACT COMPLETION.

- a. Project Substantial Completion. After all Segments achieve Segment Final Acceptance, the PDB will give notice that the Work is at Project Substantial Completion. Subject to UTA concurrence (which will not be unreasonably withheld), UDOT will issue to the PDB a Notice of Project Substantial Completion pursuant to the Phase 2 Contract.
- b. Asset List; Project Physical Completion. Prior to Project Physical Completion, as defined in the Phase 2 Contract, UDOT will provide UTA with a list of assets that meets the minimum requirements for an asset record (cost greater than \$5,000 and a useful life of 1 year or more) in accordance with FTA Circular 5010.f. UTA will work collaboratively with UDOT on the development of this submission. The Project achieves Project Physical Completion when all of the following have occurred: (i) the Project has achieved Project Substantial Completion; (ii) the Deferred Punch List items for all Segments of the Project have been completed; (iii) UTA has received the asset list identified in this Section 12.b; and (iv) the PDB has given to UTA all remaining Project paperwork, including but not limited to administrative notices, warranties associated with Deferred Punch List items, and all items that must be submitted under the Phase 2 Contract. The PDB will give UDOT notice that the Work has reached Project Physical Completion. Subject to UTA concurrence (which will not be unreasonably withheld), UDOT will issue to the PDB a Notice of Project Physical Completion pursuant to the Phase 2 Contract.
- c. Contract Completion. The Parties each agree to adhere to the FTA Project closeout requirements and to the processes for close out that are stated in the PMP and the Phase 2 Contract. The Parties will also take other steps as set forth in this Agreement to reach Project closeout. The Project has achieved Contract Completion when all of the following have occurred: (i) the Project has achieved Project Physical Completion; (ii) the PDB has given to UDOT all remaining required releases in connection with the Project Work; and (iii) UTA gives UDOT a Project Certificate of Acceptance. The PDB will give notice to UDOT of Contract Completion. Subject to UTA concurrence (which will not be unreasonably withheld), UDOT will issue a Notice of Contract Completion to the PDB pursuant to the Phase 2 Contract.
- d. Mutual Release. The following shall occur automatically at the time when UTA issues a Project Certificate of Acceptance:
 - i. Both Parties shall be completely released from, and shall have no further responsibilities of any kind with regard to, the Project Work, except that neither

Party shall be released from matters that relate to UDOT's or to UTA's role in connection with Warranty or latent defects as provided in Section 13 below.

- ii. UTA agrees to look exclusively to UDOT's PDB contractor for relief regarding defects which fall within the PDB contractor's warranty or contractual responsibility for correction of latent defects.
- iii. The Parties fully release and discharge each other (but not third parties) from liability for all claims related to the Project Work, except for the following which are not released:
 - (a) Any unresolved claims (not warranty or latent defect work) that are subject to Section 8 of the Base Agreement, but only if the claim survived the issuance of a Certificate of Segment Final Acceptance under the terms stated in Section 10.h.
 - (b) Matters which the Parties agree to resolve after the issuance of a Project Certificate of Acceptance, but only as stated in a written agreement executed by authorized representatives of the Parties.
- iv. For avoidance of doubt, the Parties affirm that in connection with any claim involving a third party, the mutual releases provided for in this Agreement shall remain in effect, and the Base Agreement at Section 8.c shall apply. In a third-party claim, each Party also agrees to the following: (a) that it may be joined to a suit or other action; (b) that both parties must approve either party's settlement of a third-party claim; and (c) that neither party will make any admissions against the other party.
- v. The releases contained in this Section 12.d do not require any additional documentation to take effect as of the time when UTA issues a Project Certificate of Acceptance.

13. WARRANTY. The Parties agree that they will negotiate to obtain the following related to the Warranty to be provided by the PDB:

- a. Contents. The Phase 2 Contract will include a provision that will grant to UTA a two (2)-year warranty effective for each Segment beginning at Segment Final Acceptance of that Segment, or as negotiated with the PDB and consented to by UTA ("**Warranty**"). UDOT will provide for the Warranty to be assignable to UTA under the Phase 2 Contract or to be provided directly to UTA by the PDB. If an assignment is needed, UDOT will assign each Warranty to UTA as part of the closeout process for each Segment so UTA can administer the Warranty. UDOT will provide reasonable assistance to UTA as needed in connection with enforcing a Warranty. The Warranty will also include the following:

- i. The Warranty for constructed Work shall warrant that all Work, including all materials and equipment furnished as part of the Work, will be: (i) of good quality conforming to generally recognized industry standards; (ii) in conformance with the contract documents; (iii) free of defects in materials and workmanship; and (iv) consistent with applicable legal requirements. Repair or replacement acceptable to UTA shall be accomplished within thirty (30) days of notice provided to the PDB pursuant to the terms of the Warranty.
 - ii. The Warranty for any design, engineering, or other professional services provided by the PDB will warrant that the Work conforms to applicable professional standards of care and that all materials and equipment furnished as part of the construction will be new (unless otherwise specified in the Phase 2 Contract).
 - iii. The Warranty for constructed Work shall also contain a latent defects provision requiring the PDB to repair or replace defective Work which was not reasonably discovered at the time of inspection and acceptance but was subsequently discovered within five (5) years of Segment Final Acceptance. Repair or replacement acceptable to UTA shall be accomplished within thirty (30) days of notice provided to the PDB pursuant to terms and conditions acceptable to UTA.
- b. Administration. UTA will own and administer all warranties. If needed, UDOT will reasonably assist UTA in enforcing warranties and providing documentation, if requested.
- c. Ongoing Cooperation. UDOT will provide ongoing cooperation to UTA for matters concerning enforcement of the Warranty, resolution of any Project-related claims that may remain or be asserted after Contract Completion, and for matters that relate to FTA funding for the Project. Each Party agrees to give the other Party prompt notice of any claim or controversy that concerns any aspect of the Project (including, but not limited to, FTA funding).
- d. No Warranty by UDOT. For any Work handed over by UDOT to UTA, UTA's only recourse in connection with the Work is against the Warranty, not against UDOT. Whether during the Warranty period or thereafter, UDOT has no role, risk, or responsibility in connection with the Project except for UDOT's obligations to UTA that are stated in Subsections 13.b and 13.c.

14. MISCELLANEOUS: The following shall apply in the manner stated below:

- a. Applicable Terms from Base Agreement. This Agreement is subject to the terms stated in the Base Agreement except where this Agreement expressly states that it modifies the Base Agreement. Applicable terms from the Base Agreement include, but are not limited to: Base Agreement Section 8 (Addressing Liability, Dispute Resolution, and Termination); and Base Agreement Section 10 (General Provisions).

- b. Other Project Agreements Apply. The Parties have signed or will sign a number of agreements to govern the Project. This Agreement only governs the matters expressly stated herein. This Agreement does not modify or amend the terms of any other Project agreement (except to the extent expressly stated in this Agreement). All other Project agreements, which include the Base Agreement and the Reimbursement Agreement, remain fully in effect, and the Parties agree that all Project agreements shall be interpreted in a harmonious manner to act as a single agreement that governs the different aspects of the Project. The Parties also agree that other Project agreements shall apply to Phase 2 Activities if the subject matter of the other agreement addresses an activity and the other agreement is subject to the Base Agreement (for example, the Reimbursement Agreement shall apply to UTA's requests for reimbursements in connection with expenses for Phase 2 Activities, and to UTA's obligations in connection with FTA funding). Clauses in any agreement that is subject to the Base Agreement which state that the document constitutes the entire agreement of the Parties shall be construed to mean that all agreements subject to the Base Agreement together are the entire agreement of the Parties, as if they were written in one document.
- c. Interference. If UTA unreasonably interferes with UDOT's management of this Agreement or the Phase 2 Contract, such as, for example, by unreasonably withholding a concurrence or acceptance, UTA shall be responsible to reimburse the Project for the additional costs incurred. UTA's concurrence with or acceptance of an activation and the issuance of a PSS Certificate is within its sole discretion and its withholding of such concurrence or acceptance shall not be considered as unreasonable interference as long as there is a rational basis for its actions and its actions are in accordance with the Phase 2 Contract.
- d. Additional Terms. The following miscellaneous terms shall apply to this Agreement, and the Parties also agree that the following terms shall apply to the Base Agreement and to the Reimbursement Agreement as well:
 - i. Agreements Prevail over Plans. If a provision contained in the Base Agreement, the Reimbursement Agreement, this Agreement, or any other agreement subject to the Base Agreement is in direct conflict with a provision contained in any plan for the Project, the plan provision shall be subordinate to the conflicting provision in one of such agreements and the relevant agreement shall control.
 - ii. Date of Plans. Plans referenced in this Agreement, or any other Project agreement, shall mean the plan as amended from time to time. The version of a plan that applies to a Project action is the version of the plan that was in effect at the time of such action (except to the extent that the Parties agree otherwise in writing).
 - iii. Survival. The terms stated in this Agreement, or stated in any other Project agreement, which by their nature must be performed after UTA provides UDOT

a signed Project Certificate of Acceptance for the Project, shall survive a termination of this Agreement or the other Project agreement.

- iv. Savings Clause. This Agreement (or, if any part hereof is invalidated by law, this Agreement's remaining provisions) shall be construed to enforce its terms to the fullest extent allowed under applicable law to give effect to the intent of the parties. This Agreement shall not be construed against a drafter.
- v. Parties' Legal Fees. UTA and UDOT will each pay for their own legal fees and expenses associated with any dispute regarding the Project or arising from any agreements associated with the Project, including this Agreement or any other Project agreement, if such legal fees and expenses are not compensable pursuant to Section 8 of the Base Agreement.
- vi. Amendments: Any amendment to this Agreement must be in writing and executed by an authorized representative of each Party.

15. EXHIBITS TO THIS AGREEMENT. The following exhibits are attached to and incorporated into this Agreement, and the Parties agree that they may be updated from time to time without amending this Agreement:

- a. Exhibit A: Roles and Responsibilities Matrix;
- b. Exhibit B: Form of Right of Entry (ROE);
- c. Exhibit C: Design Review and Approval Workflow; and
- d. Exhibit D: UTA License Procedure.

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IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be executed as of the Effective Date by its authorized representative.

UTAH TRANSIT AUTHORITY

UTAH DEPARTMENT OF TRANSPORTATION

Jay Fox

Executive Director

Date: _____

Josh Van Jura

Director of Transit and Trails

Date: _____

David Hancock

Chief Capital Services Officer

Date: _____

Brian Allen

Transit Project Director

Date: _____

Approved as to Form:

Approved as to Form:

Michael L Bell

 Digitally signed by Michael L Bell
Date: 2025.07.16 10:14:30 -06'00'

Michael L. Bell

Assistant Attorney General (UTA)

Jodi Howick

Assistant Attorney General (UDOT)

FRONTRUNNER STRATEGIC DOUBLETRACKING PROJECT (FS2X)
SECOND COOPERATIVE AGREEMENT BETWEEN UDOT AND UTA
BUSINESS TERMS

Exhibit A

Roles and Responsibilities Matrix

	Description of the Role	Lead	Support	UDOT / UTA
Contracting of the PDB	Management of the Contractor for project delivery; commercial risk; alignment with legislature's expectations; leadership to manage priority of issues for resolution	UDOT	UTA	<p>UDOT: Accountable for commercial relationship – essential to maintain project budget/schedule.</p> <p>UTA: Review Ts&Cs, tech specs for working in an active rail envt. with demonstrated success; support UDOT.</p>
Construction Quality / Inspection	Two roles: (1) Programmatic - ensure quality best practices utilized; (2) inspection to ensure work is built to design/functionality	UDOT	UTA	<p>UDOT: QA program; auditor to verify PDB following practices it said it would.</p> <p>UTA: Inspection to verify work functions so UTA can operate.</p>
Design Quality / Approval	Manage the contract for design and ensure timely completion of design; manage review and approval of design to the agreed project standards	UDOT	UTA	<p>UDOT: Manage the design development process and outcome.</p> <p>UTA: Set standards for functionality that the design must meet; timely and reasonably review and approve design plans and any proposed variances to UTA standards.</p>
Project Scope/ Betterments/ Changes	Define the scope of the project initially to develop a project financial plan; define project goals; manage project changes using contingency to industry	UDOT	UTA	<p>UDOT: Manage change control process to ensure compliance with project schedule and budget.</p> <p>UTA: Interpret original project scope for purposes of</p>

FRONTRUNNER STRATEGIC DOUBLETRACKING PROJECT (FS2X)
SECOND COOPERATIVE AGREEMENT BETWEEN UDOT AND UTA
BUSINESS TERMS

	Description of the Role	Lead	Support	UDOT / UTA
	best practices; develop process to understand technical merits of proposed changes/business case			functionality; make the value-add case for changes to demonstrate outcome and to support defensibility of UDOT decisions; raise requests for changes as soon as possible.
Rolling Stock	Procure, test and accept rail cars	UDOT	UTA	UDOT: Manage procurement process; manage commercial agreement UTA: Provide technical functionality requirements; support testing; accept rail cars after completion of testing
Railroad	Complete agreements with UPRR and execute commitments in those agreements; manage relationship between PDB and UPRR	UTA	UDOT	UDOT: Complete construction agreement; execute commitments in construction agreement; manage interface between PDB and UPRR UTA: Complete O&M and property agreements; continue to manage its relationship with UPRR
Testing /Acceptance	Approve and manage Contractor's testing program to demonstrate functionality of system meets UTA O&M requirements.	UTA	UDOT	UDOT: Manages Contractor-UTA interface. UTA: Technical lead; documentation and communication to UDOT.

Exhibit B
Form of ROE—Consent Agreement

UTA Contract # [Enter Contract No.](#)
Mile Post: [Enter Mile Post](#)
Latitude: [Enter Latitude](#)
Longitude: [Enter Longitude](#)
[Enter City](#), Utah

This Consent Agreement (“Agreement”) is made and entered into as of the ____ day of _____ 20__ **(to be dated after the final executing signature by UTA)** by and between Utah Transit Authority, a large public transit district organized pursuant to the laws of the State of Utah (“UTA”), and [Enter Company Name](#), a [Enter State Select business entity](#), with a principal address of [Enter address](#) (“Contractor”).

RECITALS

WHEREAS, Contractor has been contracted by [Enter Company Name](#) (“Company”) for the purpose of [Enter ‘work’ description](#) (the “Work”) in the [Select RR Line](#) at approximately Mile Post [Enter Mile Post](#) (Latitude [Enter Latitude](#), Longitude [Enter Longitude](#)) in [Enter City](#), Utah (the “Right of Way”);

WHEREAS, Contractor recognizes that the activities inherent in the Work occurring on, near, by, or adjacent to railway is inherently dangerous and requires the consultation of UTA; and

WHEREAS, UTA consents to the Work at the above listed location provided Contractor performs the Work safely and according to industry standards and otherwise abides by the following terms and conditions listed in this Agreement.

AGREEMENT

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

- 1.1 “Contractor” shall include any contractors, subcontractors, officers, agents, employees and others acting under Contractor’s authority.
- 1.2 “Emergency Access Manager” means the person or office responsible for controlling emergency construction and maintenance access to the Right of Way. The Emergency Access Manager as of the execution of this Agreement shall be reached at (801) [Select phone number](#). UTA may change the designated Emergency Access Manager from time to time by delivery of notice in accordance with Special Provisions Exhibit “A” of this Agreement.
- 1.3 “Hazardous Materials” mean any materials or substances: (i) which are present in quantities and in forms which require investigation, removal, cleanup,

Exhibit B
Form of ROE—Consent Agreement

transportation, disposal, response or remedial action (as the terms “response” and “remedial action” are defined in Section 101 of the Comprehensive Environmental Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601 (24) and (25)) under any applicable federal, state or local environmental law, regulation, ordinance, rule or bylaw, as such are amended from time to time, whether existing as of the date hereof, previously enforced or subsequently amended (each hereafter an “Environmental Law”); or (ii) which are defined as “hazardous wastes,” “hazardous substances,” “pollutants” or “contaminants” under any Environmental Law.

- 1.4 “Losses” mean any losses, damages, claims, demands, actions, causes of action, penalties, expenses, litigation costs, attorneys’ fees, expert witness fees, court costs, amounts paid in settlement, judgments, interest or other costs resulting from: (i) loss of or damage to the property of any Party or Third Person; (ii) death or personal injury to the agents of any Party or to any Third Person; or (iii) the cleanup or other requirements regarding any incident involving Hazardous Materials.
- 1.5 “Third Person” means any individual, corporation or legal entity other than UTA and Contractor.
- 1.6 “Work Window” means the time period designated by UTA during which Construction is permissible. UTA may, at any time and at UTA’s sole discretion, determine that the Work Window shall not be concurrent with any passenger operations within the Right of Way.

2. **IMPORTANT NOTICE. THIS AGREEMENT AND ITS EXHIBITS CONTAIN SPECIAL PROVISIONS, MANDATED SPECIALIZED TRAINING FOR WORKERS WITHIN THE RAILROAD RIGHT-OF-WAY, TRACK ACCESS PERMIT REQUIREMENTS, NOTIFICATION REQUIREMENTS, AND OTHER OUT-OF-THE-ORDINARY SPECIFICATIONS THAT MUST BE STRICTLY FOLLOWED. CONTRACTOR SHALL REVIEW THIS AGREEMENT INCLUDING ITS EXHIBITS THOROUGHLY AND AGREES TO STRICTLY COMPLY WITH ALL PROVISIONS AND REQUIREMENTS.**

3. Access to the Right of Way. UTA’s consent to enter the Right of Way is not granted until a signed copy of this Agreement is returned to UTA. After such consent has been granted, Contractor shall comply with all conditions, instructions and requirements of such permit and with all instructions or directions given by UTA including, if required, daily telephone notification to the applicable rail dispatch center prior to each entry into the Right of Way and again upon departure. The Work shall be performed during the designated Work Window as specified by UTA. All contact with UTA shall be coordinated through the person designated by UTA. The current designated person/group is listed in Exhibit “A” Special Provisions (Exhibit “A” is attached hereto and hereby incorporated into and made a part of this Agreement by reference). Provided that Contractor complies with the provisions of this Section, UTA agrees not to unreasonably withhold, condition, or delay its approval of Contractor’s request.
4. Right Granted; Purpose. Upon full execution hereof, UTA consents to the Contractor’s Work at a minimum [Enter depth/height requirement](#) feet [Select below or overhead](#). The scope of the consent shall be limited solely to the purpose of the Work as approved in the

Exhibit B
Form of ROE—Consent Agreement

drawings dated **Select Date** and approved by UTA Engineer on **Select Date** shown in the attached Exhibit “B” (Exhibit “B” is attached hereto and hereby incorporated into and made a part of this Agreement by reference). Contractor shall strictly comply with any reasonable instructions, directions or restrictions promulgated by UTA. **The consent is granted for Work to commence on Select Date and continue until Select Date** unless Contractor shall have sooner completed the Work (at which time the right of entry shall automatically terminate).

5. Compliance with Law. In the prosecution of the Work, Contractor shall secure any and all necessary permits and shall comply with all applicable federal, state and local laws, regulations and enactments applicable to the Work. All Work shall be performed in a workmanlike manner and in compliance with all applicable industry standards. Contractor shall perform and stage construction so as to ensure the safety of: (a) Contractor’s agents and employees; (b) any and all passenger or freight operations conducted on the Right of Way; (c) surrounding property owners; and (d) the public in general. Without limiting the generality of the foregoing, Contractor shall conduct the Work in compliance with all requirements of the Federal Transit Administration, Federal Railroad Administration, the United States Occupational Safety and Health Administration (“OSHA”), and the Utah Department of Transportation.
6. All costs or fees due to UTA as related to issuance of this Agreement will be addressed in a separate agreement between UDOT and UTA.
7. Costs of Work. As between Contractor and UTA, Contractor shall be solely responsible for any and all costs incurred with respect to the Work.
8. Safety. Safety of personnel, property, rail operations and the public is of paramount importance in the prosecution of the Work. Contractor shall conduct their Work in a safe and reasonable manner.
9. Indemnification. As consideration for the consent conveyed pursuant to this Agreement, Contractor agrees to protect, defend, release, indemnify and hold harmless UTA from and against any Losses proximately caused by: (a) the prosecution of the Work contemplated by this Agreement by Contractor, or any employees, principals or agents of Contractor; (b) any mechanic’s, materialman’s, tax or other lien asserted against the Property as the result of the Work; (c) the failure to properly obtain any permit or other approval necessary for the Work; or (d) Contractor’s material breach of any provision of this Agreement.
10. Insurance. Contractor shall, at its sole cost and expense, obtain and maintain the insurance described in Exhibit “C” (Exhibit “C”) is attached hereto and hereby incorporated into and made a part of this Agreement by reference). Contractor will also provide to UTA a Certificate of Insurance, issued by its insurance carrier confirming the existence of such insurance and that the policy or policies contain the following endorsement:

“Utah Transit Authority is named as an additional insured with respect to all liabilities arising out of any work performed pursuant to or associated with the Consent Agreement **Enter Contract No.** in the railroad right of way known as the **Select RR Line** at approximately Mile Post **Enter Mile Post** in **Enter City, Select County** County, Utah.”

Exhibit B
Form of ROE—Consent Agreement

- 10.1 Contractor hereby acknowledges that it has reviewed the requirements of Exhibit “C”, including without limitation the requirement for Railroad Protective Liability Insurance during the Work.
11. Entire Agreement; Counterparts. This Agreement shall constitute the entire agreement and understanding of the parties with respect to the subject matter hereof, and shall supersede all offers, negotiations and other agreements with respect thereto. Any amendment to this Agreement must be in writing and executed by the authorized representatives of each party. This Agreement may be executed in any number of counterparts and by each of the parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Any signature page of this Agreement may be detached from any counterpart and reattached to any other counterpart hereof. The facsimile transmission of a signed original of this Agreement or any counterpart hereof and the retransmission of any signed facsimile transmission hereof shall be the same as delivery of an original.
12. Termination. This Agreement and consent granted hereunder may be terminated by UTA in the event that Contractor continues in default with respect to any provision of this Agreement for a period of five days after receipt of notice from UTA identifying the nature of Contractor’s breach. Notwithstanding the foregoing, in the event that the nature of Contractor’s breach constitutes an imminent threat to persons or property, UTA may immediately suspend the consent granted herein until such time as Contractor remedies the breach.

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Exhibit B
Form of ROE—Consent Agreement

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

UTAH TRANSIT AUTHORITY

Reviewed and Approved as to Form for UTA

By: _____
Paul Drake
Director, Real Estate & TOD

UTA Engineering

By: _____
Spencer Burgoyne
Manager, Property Administration

Tim Merrill
Assistant Attorney General

By: _____
[Select Administrator Name](#)
Property Administrator

CONTRACTOR

By: _____
[Enter name of executer, Title](#)
[Enter Company Name](#)

Exhibit B
Form of ROE—Consent Agreement

EXHIBIT “A”
SPECIAL PROVISION

1. UDOT has entered into an agreement with Union Pacific Railroad (UPRR) that provides Contractor access to UPRR right of way.
2. Contractor will also obtain a track access permit, which is a daily permit that identifies the work scheduled for each particular day and how the work will be protected from active trains. UTA and Contractor will hold a weekly meeting where UTA will provide to Contractor the daily track access permits for the following week.

A copy of the permit that shall be filled out and submitted can be found on UTA’s website, under the Track Access Permit tab.

<https://rideuta.com/Doing-Business/Property-Management>

Note: Track Access Permits will not be issued without first having an executed Contractor’s Consent Agreement with UTA and UTA having received proof of insurance as provided in the Consent Agreement. Also, verification that the Contractor and all of the Contractor’s Employees have gone through UTA’s Roadway Worker Training, if applicable.

3. Contractor will only cross the Right of Way designated Public Crossings.

Exhibit B
Form of ROE—Consent Agreement

EXHIBIT “B”
APPROVED DESIGN PLANS

Exhibit B
Form of ROE—Consent Agreement

EXHIBIT “C”
INSURANCE REQUIREMENTS

The following insurance requirements have been provided as part of the Owner-Controlled Insurance Program (OCIP).

- A. **Commercial General Liability Insurance:** Policy providing coverage for death, personal injury and property damage with a combined single limit of at least \$10,000,000 each occurrence or claim and an aggregate limit of at least \$20,000,000. The policy shall contain broad form contractual liability insurance covering the indemnity obligations assumed by Contractor in the Agreement. Exclusions for railroads (except where the Work is in all places more than fifty (50) feet from any railroad tracks, bridges, trestles, roadbeds, terminals, underpasses or crossings), and explosion, collapse and underground hazard shall be removed. Coverage provided on a “claims made” form shall provide for at least a two-year extended reporting and discovery period if (a) the coverage changes from a claims made form to an occurrence form, (b) there is a lapse/cancellation of coverage, or (c) the succeeding claims made policy retroactive date is different for the expiring policy.
 - a. The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE: “Contractual Liability Railroads” ISO from CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing “Utah Transit Authority Property” as the Designated Job Site.
- B. **Automobile Liability Insurance:** Policy providing bodily injury, property damage and uninsured vehicles coverage with a combined single limit of at least \$2,000,000 each occurrence or claim. This insurance shall cover all motor vehicles including hired and non-owned, and mobile equipment if excluded from coverage under the commercial general liability insurance.
- C. **Worker’s Compensation and Employer’s Liability Insurance:** Policy covering Contractor’s statutory liability under the laws of the State of Utah. If Contractor is self-insured, evidence of State approval must be provided.
- D. **Railroad Protective Liability Insurance (RRPLI):** During construction and maintenance within fifty (50) feet of an active railroad track, including but not limited to installation, repair or removal of facilities, equipment, services or materials, the Contractor must maintain “Railroad Protective Liability” insurance on behalf of UTA and Union Pacific Railroad (“UPRR”), for each as named insured with a combined single limit of not less than \$25,000,000 per occurrence and an aggregate of \$25,000,000.
- E. **Umbrella or Excess Insurance:** If Contractor utilizes umbrella or excess policies, and these policies must “follow form” and afford no less coverage than the primary policy.

Exhibit B
Form of ROE—Consent Agreement

F. Other Insurance Provisions:

- a. Contractor and their insurers shall endorse the required insurance policy(ies) to waive their right of subrogation against UTA. Contractor's insurance shall be primary with respect to any insurance carried by UTA. Contractor will furnish UTA at least thirty (30) days advance written notice of any cancellation or non-renewal of any required coverage that is not replaced.
- b. The required insurance policy(ies) shall be written by a reputable insurance company with a current AM Best's Insurance Guide Rate of A better, or as may otherwise be acceptable to UTA. Such insurance company shall be authorized to transact business in the State of Utah.
- c. The fact that insurance is obtained by Contractor shall not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by UTA shall not be limited by the amount of the required insurance coverage.

EXHIBIT C Design Review and Approval Workflow

FRONTRUNNER (FR2X) SECOND COOPERATIVE AGREEMENT

Exhibit C: Design Review and Approval Workflow

Suggested process for UDOT, PDB, and UTA's design review process to be added as Exhibit C to the Second Coop Agmt

NOTE1: PDB will submit a Design QMP under the Contract with UDOT. UDOT will approve the Design QMP in coordination with UTA.

This document will address durations for actions that UDOT and PDB are responsible for.

NOTE2: If the design milestones are changed through the PDB process, this design review workflow will need to be updated.

#	Step in the process	Description/ narrative	Process Owner
1	Establish UTA Design Criteria and Requirements	UTA specifies design criteria that the project design must meet to obtain its timely approval.	UTA
2	Send design standards to UDOT	UTA sends design criteria applicable to the project to UDOT	UTA
3	Develop basis of design	UDOT incorporates UTA's design criteria into the basis of design for the Project ("basis of design") and manages development of 30% design through to end of design completion	UDOT
4	Develop and submit 60% design	UDOT (through PDB) develops 60% design. UDOT (through PDB) will identify any design exceptions or deviations for UDOT and UTA's review and approval.	PDB, UDOT
5	Complete QA/QC of 60% design	UDOT (through PDB) performs QA/QC according to agreed procedures in the Design QMP that it will submit. UDOT and UTA provide oversight and performs audits. The Design QMP will be approved by UDOT in coordination with UTA.	PDB, UDOT
6	Process 60% design submittal	UDOT loads the 60% design deliverables into Bluebeam, which triggers notifications to reviewers that the submittal is ready for review.	UDOT
7	Review of 60% design	UTA and UDOT review 60% design submittal within 9 working days from receipt of notification from Bluebeam that the design submittal is ready for review. This step includes managing the review within UTA and UDOT and gathering inputs from all departments that need to review and comment. Comments should specifically identify any deviations from its design criteria incorporated into the basis of design. Note that the 9-day review period is only for review of the design submittal on Bluebeam and does not include the time that UDOT needs to process the comments.	UTA
8	Process comments on 60% design	UDOT will remove duplicative comments and connect all comments that affect scope to a specific design criteria included in the basis of design. Any comment that cannot be directly connected to design criteria or classified as design refinement will be discussed between UDOT and UTA for inclusion or removal. Conclusion of this step includes transmittal of final agreed-upon comments to PDB by UDOT. Comments not based on the basis of design or classified as design refinement are considered "Opportunity for improvement or OFI comments" and will be resolved according to Step 9 of this design review workflow.	UDOT

9	Resolve any remaining issues on 60% design	UDOT (through PDB) will: 1) respond to all comments received from UTA and UDOT and provide dispositions 2) schedule a comment resolution meeting to resolve comments that will not be incorporated. Comments that remain unresolved (including any OFI comments) will be escalated to a three-member panel comprising representatives of UDOT, PDB, and UTA for resolution. (The PMC will organize this panel)	UDOT, PDB, and UTA
10	Revise 60% design as needed and send to UTA for approval	UDOT (through PDB) revises the 60% design in accordance with the resolution reached in Step 9.	UDOT
11	60% design comment closeout	UDOT will close out the 60% design submittal comment package when all comments are accepted or deferred with responses by PDB that are satisfactory to UTA and UDOT reviewers. Any deferred comments will be transferred to the next design submittal comment package to verify incorporation.	UDOT
12	Develop and submit 90% design	UDOT (through PDB) progresses the design from 60% through to 90% completion in alignment with UTA design criteria (included in the basis of design).	PDB, UDOT
13	Complete QA/QC of 90% design	UDOT (through PDB) performs QA/QC according to agreed procedures in the Design QMP that it will submit. UDOT and UTA provide oversight and performs audits. The Design QMP will be approved by UDOT in coordination with UTA.	PDB, UDOT
14	Process 90% design submittal	UDOT loads the 90% design deliverables into Bluebeam, which triggers notifications to reviewers that the submittal is ready for review.	UDOT
15	Review of 90% design	UTA and UDOT review 90% design submittal within 9 working days from receipt of notification from Bluebeam that the design submittal is ready for review. This step includes managing the review within UTA and UDOT and gathering inputs from all departments that need to review and comment. At this stage, no deviations from UTA's design criteria are expected. Note that the 9-day review period is only for UTA review of the design submittal on Bluebeam and does not include the time that UDOT and PDB need to process the comments.	UTA
16	Process comments on 90% design	UDOT will remove duplicative comments and connect all comments that affect scope to a specific design criteria included in the basis of design. Any comment that cannot be directly connected to design criteria or classified as design refinement will be discussed between UDOT and UTA for inclusion or removal. Conclusion of this step includes transmittal of final agreed-upon comments to PDB by UDOT. Comments not based on the basis of design or classified as design refinement are considered "Opportunity for improvement or OFI comments" and will be resolved according to Step 17 of this design review workflow.	UDOT
17	Resolve any remaining issues on 90% design	UDOT (through PDB) will: 1) respond to all comments received from UTA and UDOT and provide dispositions 2) schedule a comment resolution meeting to resolve comments that will not be incorporated. Comments that remain unresolved (including any preferential comments) will be escalated to a three-member panel comprising representatives of UDOT, PDB, and UTA for resolution.	UDOT

18	Revise 90% design as needed and send to UTA for approval	UDOT (through PDB) revises the 90% design in accordance with the resolution reached in Step 17.	UDOT
19	90% design comment closeout	UDOT will close out the 90% design submittal comment package when all comments are accepted or deferred with responses by PDB that are satisfactory to UTA and UDOT reviewers. Any deferred comments will be transferred to the next design submittal comment package to verify incorporation.	UDOT
20	Develop and submit 100% design	UDOT (through PDB) progresses the design from 90% through to design completion.	UDOT
21	QA/QC of 100% design	UDOT (through PDB) performs QA/QC according to agreed procedures in the Design QMP that it will submit. UDOT and UTA provide oversight and perform audits. The Design QMP will be approved by UDOT in coordination with UTA.	UDOT
22	Process 100% design submittal	UDOT loads the 100% design deliverables into Bluebeam, which triggers notifications to reviewers that the submittal is ready for review.	UDOT
23	Review of 100% design	UTA and UDOT review 90% design submittal within 9 working days from receipt of notification from Bluebeam that the design submittal is ready for review. This step includes managing the review within UTA and UDOT and gathering inputs from all departments that need to review and comment. At this stage, no deviations from UTA's design criteria are expected. Note that the 9-day review period is only for UTA's review of the design submittal on Bluebeam and does not include the time that UDOT and PDB need to process the comments.	UTA
24	Process comments on 100% design	UDOT will remove duplicative comments and connect all comments that affect scope to a specific design criteria included in the basis of design. Any comment that cannot be directly connected to design criteria or classified as design refinement will be discussed between UDOT and UTA for inclusion or removal. Conclusion of this step includes transmittal of final agreed-upon comments to PDB by UDOT. Comments not based on the basis of design or classified as design refinement are considered "Opportunity for improvement or OFI comments" and will be resolved according to Step 25 of this design review workflow.	UDOT
25	Resolve any remaining issues on 100% design	UDOT (through PDB) will: 1) respond to all comments received from UTA and UDOT and provide dispositions 2) schedule a comment resolution meeting to resolve comments that will not be incorporated. At this stage, any unresolved issues would need to be resolved using the escalation mechanisms set out in the First Coop Agmt.	UDOT
26	Revise 100% design as needed and send to UTA for approval	Revise the 100% design in accordance with the resolution reached in Step 25.	UTA

27	100% design comment closeout	UDOT will close out the 100% design submittal comment package when all comments are resolved with responses by PDB that are satisfactory to UTA and UDOT.	UDOT
28	Approval of 100% design	UTA approves 100% design.	UTA
29	RFC package issued	Following the resolution of comments on the 100% design, the PDB will issue the release for construction (RFC) design package to UDOT	PDB

FRONTRUNNER (FR2X) SECOND COOPERATIVE AGREEMENT, Exhibit D

20253 - FR 2X - UTA License Agreement Relocation Process

