

## REIMBURSEMENT AGREEMENT

This AGREEMENT made this 1st day of June, 2023 by and between AT&T Corp., on behalf of itself and its affiliated companies, which has a place of business at 3450 Riverwood Parkway SE, Atlanta, GA 30339 ("AT&T") and Utah Transit Authority which has a place of business at 669 W. 200 S., Salt Lake City, UT 84101 ("UTA").

### WITNESSETH:

**WHEREAS**, AT&T is a grantee of an right-of-way and easement from Union Pacific Railroad Company to construct, maintain and replace conduit with fiber optic cable (the "Easement"); and

**WHEREAS**, the Easement and any AT&T buried cable and associated facilities that have been placed within the Easement will be adversely impacted by UTA's proposed construction within the Easement strip; and

**WHEREAS**, UTA will reimburse AT&T for AT&T's cost of protecting, adjusting and/or lowering a section of the AT&T Salt Lake City, UT and Sacramento, CA NexGen Link 22 Cable between AT&T Cable Markers 1010 and 1016 (the "Cable");

**NOW THEREFORE**, the parties agree as follows:

1. AT&T will provide engineering, plant protection, labor, materials, and supervision necessary to protect, relocate and/or lower the Cable, as deemed necessary in AT&T's sole judgment (the "Work"). The Work is more particularly described in attached Exhibit A. The starting date will be set by the parties so that the Work can be completed as expeditiously as practicable.
2. UTA shall pay AT&T the actual cost of the Work, which is estimated to be One Hundred Ninety-Nine Thousand Five Hundred Dollars (\$199,500.00), as shown on attached Exhibit B. UTA acknowledges that the estimated cost does not include rock removal costs and that if rock removal is required, the actual cost may greatly exceed the estimated cost. Upon completion of the Work, AT&T will send a final invoice to UTA for the actual cost of the Work. UTA shall pay AT&T within thirty (30) days from the invoice date.
3. UTA agrees to exercise all due caution while working near the Cable, in order to prevent damage to the Cable. UTA agrees:
  - (a) to notify AT&T by telephone at 1-800 252-1133 at least forty-eight (48) hours prior to performing any construction, demolition or repairs at the Cable location;

(b) to perform construction, demolition, repair, modifications, additions and any other activities in compliance with all applicable laws and regulations and in a manner that does not interfere with the operations of AT&T; and

(c) not to work at the Cable location without AT&T's prior authorization and AT&T's On-Site Work Force personnel being present during the work.

4. UTA (the "Indemnifying Party") shall indemnify, defend and hold harmless AT&T (the "Indemnified Party") from and against any and all claims, demands, actions, losses, damages, assessments, charges, judgments, liabilities, costs and expenses (including reasonable attorneys' fees and disbursements) that may from time to time be asserted by third parties against the Indemnified Party because of any personal injury, including death, to any person or loss of, physical damage to or loss of use of real or tangible personal property, to the extent caused by the negligence or misconduct of the Indemnifying Party, its agents, employees or contractors. For purposes of indemnifications set forth in this Agreement, "Indemnified Party" means AT&T, its affiliates, subsidiaries, parent, successors and assigns and its and their employees, directors, officers, agents, contractors and subcontractors. The Indemnified Party:

4.1 shall notify the Indemnifying Party in writing promptly upon learning of any claim or suit for which indemnification may be sought, provided that failure to do so shall have no effect except to the extent the Indemnifying Party is prejudiced thereby;

4.2 shall have the right to participate in such defense or settlement with its own counsel and at its own expense, but the Indemnifying Party shall have control of this defense or settlement; and

4.3 shall reasonably cooperate with the defense.

5. AT&T MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

6. NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, EXCEPT AS PROVIDED IN SECTION 4, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, RELIANCE OR CONSEQUENTIAL DAMAGES, WHETHER FORESEEABLE OR NOT, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUE, COST OF CAPITAL, COST OF REPLACEMENT SERVICES, OR CLAIMS OF CUSTOMERS OR OF OTHER THIRD PARTIES, OCCASIONED BY ANY CAUSE WHATSOEVER, INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE OR STRICT LIABILITY.

7. UTA shall keep the Cable and other property of AT&T free from all mechanic's, artisan's, materialman's, architect's, or similar services' liens which arise in any way

from or as a result of its activities and cause any such liens which may arise to be discharged or released.

8. Except for payment of the cost of the Work, neither party shall have any liability for its delays or its failure in performance due to: fire, explosion, pest damage, power failures, strikes or labor disputes, acts of God, the Elements, war, civil disturbances, acts of civil or military authorities or the public enemy, inability to secure raw materials, transportation facilities, fuel or energy shortages, or other causes beyond its control, whether or not similar to the foregoing.

9. A party shall be in default if it fails to perform or observe any material term or condition of this Agreement and the failure continues unremedied for thirty (30) days after receipt of written notice (fourteen (14) days in the case of UTA's failure to pay

AT&T the estimated and/or actual cost of the Work); provided, however, that when such default (excluding UTA's non-payment) cannot reasonably be cured within such thirty (30) day period, this period will be extended if that party promptly commences to cure the same and prosecutes such curing with due diligence. Upon the default by a party, the other party may terminate this Agreement and pursue any legal remedies it may have under applicable law or principles of equity.

10. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns. UTA shall not assign, transfer, or dispose of this Agreement or any of its rights or obligations hereunder without prior written consent of AT&T; provided, however, that UTA may assign or transfer this Agreement to a controlling or controlled affiliate or to a successor in the event of reorganization, including a merger or sale of substantially all of its assets, without the consent of AT&T. An assignment, transfer or disposition of this Agreement by UTA shall not relieve UTA of any of its obligations under this Agreement. AT&T shall have the right to assign this Agreement and to assign its rights and delegate its obligations and liabilities under this Agreement, either in whole or in part, to any party. An assignment, transfer or disposition of this Agreement by AT&T shall not relieve AT&T of any of its obligations under this Agreement. Neither this Agreement, nor any term or provision hereof, nor any inclusion by reference shall be construed as being for the benefit of any person or entity not a signatory hereto.

11. Any demand, notice or other communication to be given to a party in connection with this Agreement shall be given in writing and shall be given by personal delivery, by registered or certified mail, return receipt requested, or by commercial overnight delivery service addressed to the recipient as set forth below or to such other address or individual, as may be designated by notice given by the party to the other:

**AT&T:**

AT&T CORP.  
3450 Riverwood Parkway, SE

Atlanta, GA 30339  
Room 162  
Attention: Right of Way Dept.

With a copy to:

AT&T CORP.  
One AT&T Way  
Room 3A105  
Bedminster, New Jersey 07921  
Attention: Legal Department - Network Services

**UTA:**

Utah Transit Authority  
669 W. 200 S.  
Salt Lake City, UT 84101  
Attention: Travis D. Colledge, PE  
Office Phone: 801-287-1980

Any demand, notice or other communication given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery thereof and if given by registered or certified mail, return receipt requested or by commercial overnight delivery service on the date of receipt thereof.

12. The failure of either party hereto to enforce any of the provisions of this Agreement, or the waiver thereof in any instance, shall not be construed as a general waiver or relinquishment on its part of any such provision, and said provision shall nevertheless be and remain in full force and effect.
13. This Agreement shall be governed by and construed in accordance with the domestic laws of the State of Arizona without reference to its choice of law principles.
14. Each party represents and warrants that:
  - (a) It has full right and authority to enter into, execute, deliver and perform its obligations under this Agreement;
  - (b) It has taken all requisite corporate action to approve the execution, delivery and performance of this Agreement;
  - (c) This Agreement constitutes a legal, valid and binding obligation enforceable against such party in accordance with its terms, subject to

bankruptcy, insolvency, creditors' rights and general equitable principles;  
and

- (d) Its execution of and performance under this Agreement shall not violate any applicable existing regulations, rules, statutes, or court orders of any local, state or federal government agency, court or body.

15. This Agreement constitutes the entire and final agreement and understanding between the parties with respect to the subject matter hereof and supersedes all prior oral and written communications, understandings and agreements relating to the subject matter hereof, which are of no further force or effect. The Exhibits referred to herein are an integral part hereof and are hereby made a part of this Agreement. This Agreement may only be modified or supplemented by an instrument in writing executed by a duly authorized representative of each party.

16. Each action or claim against any party arising under or relating to this Agreement shall be made only against such party as a corporate, and any liability relating thereto shall be enforceable only against the corporate assets of such party. No party shall seek to pierce the corporate veil or otherwise seek to impose any liability relating to, or arising from, this Agreement against any shareholder, employee, officer or director of the other party. Each of such persons is an intended beneficiary of the mutual promises set forth in this Section 16 and shall be entitled to enforce the obligations of this Section 16.

17. The relationship between the parties shall not be that of partners, agents or joint ventures for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including, but not limited to federal income tax purposes. The parties, in performing any of their obligations hereunder, shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk.

18. This Agreement and each of the parties' respective rights and obligations under this Agreement shall be binding upon and shall inure to benefit of the parties and each of their respective permitted successors and assigns.

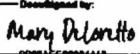
19. No provision of this Agreement shall be interpreted to require any unlawful action by either party. If any section or clause of this Agreement is held to be invalid or unenforceable, then the meaning of that section or clause shall be construed so as to render it enforceable to the extent feasible. If no feasible interpretation would save the section or clause, it shall be severed from this Agreement with respect to the matter in question, and the remainder of the Agreement shall remain in full force and effect. However, in the event such a section or clause is an essential element of the Agreement, the parties shall promptly negotiate a replacement that will achieve the intent of such unenforceable section or clause to the extent permitted by law.

20. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.

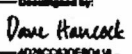
**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their authorized representatives as of the date first above set forth.

**UTAH TRANSIT AUTHORITY**

**AT&T CORP.**

By:   
Name: Mary DeLoretto  
Title: Chief Capital Services Officer

By:   
Name: Lana Scarlett-Rowell  
Title: Principal Tech Project/Program Mgmt

  
Dave Hancock  
Director of Capital Construction

Approved as to Legal Form

  
Mike Bell  
Utah Assistant Attorney General

**EXHIBIT A**

**Scope of Work**

**Engineer:** J. Andrews - Clearwater Consulting Group, INC.  
**DATE:** 05/05/23  
**TO:** AT&T - Pam Choy  
**PROJECT:** 600 S. & 100 W Provo Project

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The scope of work involves the protection of the existing AT&T Core Fiber for UTA Project in Provo, Utah. This project will encroach upon the existing fiber exposing the fiber to possible danger.

Before the project can be completed, the existing Zayo/AT&T Core/Long Haul Salt Lake City to Sacramento, Ca NEXGEN LINK 22 Fiber Optic Facilities will be horizontally shifted to avoid the Pedestrian Platform and Protection Wall.

The UTA has proposed shifting the AT&T Conduit System towards the UPRR Tracks 4 to 5 feet for approximately 140'. An AT&T Approved Contractor will be able to conduct the work needed due to Arsenic Contamination Ground. Arrangements for the work will be made with an AT&T Representative/Inspector to be on-site for the Conduit work.

The Fiber Optic Facilities which contains AT&T, Zayo, Sierra Pacific and American Fork City Fiber Cable will be exposed along with the area for the shift - see Project Plan. Once all the dirt has been moved the AT&T Conduit will be shifted the distance needed to avoid the conflict. Carriers Handholes will be exposed by an Approved AT&T Contractor to obtain Fiber Cable slack for the shift work and to watch for damage.

A new Handhole may be placed near Sta. 73+45 to help the horizontal shift near the Protection Wall. Due to the limited space between Utilities this Handhole will be set and Split Conduit may be added to the Conduit System.

An AT&T Representative/Inspector has and will continue to monitor work by UTA Contractor will working within 10 feet of the existing Conduit System.

The contractor will have all of the utilities located within the work area, contact the responsible parties and/or the construction company responsible for the new construction and request to have one of their inspectors present to make sure that their construction/bore area has been properly marked.

**Total Trench footage = 140'**  
**Total Horizontal Shift footage = 100'**  
**Total Pull/Splice Handhole/Vault = 1**  
**Total Pull/Splice Handholes/Vaults Exposure = 4**  
**Total Fiber Cable footage = 0'**

**Note:** All materials will be supplied by the UTA/AT&T Approved Contractors.

**Price:** Clearwater Consulting Group working on AT&T's behalf has charges for program management, engineering, conduit shift, and inspection services. A detailed cost estimate has been provided in Exhibit B. This estimate is a Not to Exceed (NTE) Price of \$199,500.

**Contractor Note:** The required depth on the AT&T Fiber Cable at this location will be a minimum of 60" to 72" below final grade.

Cleanup and landscaping will be done according to UPRR specifications.

The locations requiring the replacement for the total relocation of the conduits and AT&T fiber by station number located on the AT&T job prints (NG 728DN 1006 - 1009 sheets) are -

Sta. 71+50 - 73+50, 44+02 & 80+48  
AT&T Marker No. 1010 - 1016

**Remarks:** There may be costs associated for UPRR Certifications to work within the UPRR/utility right-of-way.



**EXHIBIT B**  
**COST ESTIMATE**

**AT&T Fiber Cable Project: UTA Ped Bridge - amendment**

SCHEDULE A			BID ANALYSIS	
SECTION 1				
ITEM NO.	DESCRIPTION	EST. QTY.	ESTIMATE	
			UNIT PRICE	AMOUNT
1	Mobilization	1	\$0.00	\$0.00
2	Expose and Backfill Pull/Splice Handhole/Vault - trench	2	\$0.00	\$0.00
3	Expose and Backfill Pull/Splice Handhole/Vault - vac	2	\$0.00	\$0.00
4	Dewatering and/or Drainage Daily Rate	2	\$0.00	\$0.00
5	Engineering/Redline Services Clearwater Consulting Group	1	\$3,000.00	\$3,000.00
6	Inspection Services Clearwater Consulting Group	1	\$4,000.00	\$4,000.00
7	Construction Quote for Hazardous Material Conduit Shift	1	\$180,000.00	\$180,000.00
8	Clearwater Consulting Group Additional Engineering Services	1	\$4,000.00	\$4,000.00
9	Clearwater Consulting Group Additional Inspection Services	1	\$8,500.00	\$8,500.00
<b>Estimate Totals</b>				<b>\$199,500.00</b>