



UTA CONTRACT NO. 20-03399BM

## ON-DEMAND TECHNOLOGIES AND INNOVATIVE MOBILITY SERVICES

This Master Services Agreement (MSA or Contract) is entered into and made effective as of the date of last signature below (the “Effective Date”) by and between UTAH TRANSIT AUTHORITY, a public transit district organized under the laws of the State of Utah (“UTA”), and RIVER NORTH TRANSIT LLC, a wholly owned subsidiary of Via Transportation, Inc. (“Consultant”).

### RECITALS

WHEREAS, UTA desires to hire professional services for On Demand Technologies and Innovative Mobility Services (“Work”).

WHEREAS, On January 11, 2021, UTA issued Request for Proposal Package Number 20-03399BM (“RFP”) encouraging interested parties to submit proposals to perform the services described in the RFP.

WHEREAS, Upon evaluation of the proposals submitted in response to the RFP, UTA selected Consultant as the preferred entity with whom to negotiate a contract to perform the Work.

WHEREAS, Consultant is qualified and willing to perform the Work as set forth in the Scope of Services.

### AGREEMENT

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

#### 1. SERVICES TO BE PROVIDED

- a. This MSA sets forth the general scope of services (Work) and pricing for the services to be acquired hereunder. However, service task order shall be issued for discreet projects or tasks to be performed under the MSA. Each discreet task shall be negotiated using the Not-to-Exceed pricing specified in Exhibit B of this MSA once specific scope and requirements are identified. Specific service task orders shall be issued as Amendments to this MSA. All terms of this MSA shall apply to each amendment unless specifically superseded by a provision in the amendment. Consultant shall perform all Work as set forth in the Scope of Services (Exhibit A). Except for items (if any) which this Contract specifically

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states will be UTA-provided, Consultant shall furnish all the labor, material and incidentals necessary for the Work.

- b. Consultant shall perform all Work under this Contract in a professional manner, using at least that standard of care, skill and judgment which can reasonably be expected from similarly situated professionals.
- c. All Work shall conform to generally accepted standards in the transit industry. Consultant shall perform all Work in compliance with applicable state and federal laws, regulations, rules, ordinances, permit constraints and other legal requirements including, without limitation, those related to safety and environmental protection.
- d. Consultant shall furnish only qualified personnel who meet any applicable state and federal licensing or other eligibility requirements and materials necessary for the performance of the Work.
- e. When performing Work on UTA property, Consultant shall comply with all UTA work site rules including, without limitation, those related to safety and environmental protection.
- f. Consultant and UTA shall work together in a spirit of collaboration while recognizing UTA's responsibility as the provider of public transit services and Consultant's role as a service provider to UTA.
- g. Any outreach or communications with UTA's stakeholders or constituent cities, towns or local governments will be done in collaboration with UTA. Consultant shall not initiate or respond directly to communications with UTA constituents or stakeholders but shall refer all such inquiries or communications back to UTA.

## **2. MANAGEMENT OF WORK/ISSUANCE OF SERVICE TASK ORDERS**

- a. Consultant's Project Manager will be the day-to-day contact person for Consultant and will be responsible for all Work, as well as the coordination of such Work with UTA.
- b. UTA's Project Manager will be the day-to-day contact person for UTA and shall act as the liaison between UTA and Consultant with respect to the Work. UTA's Project Manager shall also coordinate any design reviews, approvals or other direction required from UTA with respect to the Work.
- c. Service Task Orders (STOs) within the general scope of this MSA shall be issued by UTA once the requirements for specific tasks or projects become identified. Each STO shall be issued with a defined scope of work and a not-to-exceed price based on the rates and prices contained in Exhibit B. The Consultant shall provide a proposal for each STO once requested by UTA containing a description of Work along with an NTE. The Consultant shall not begin work on a STO until specifically authorized by the UTA Program Manager.
- d. STOs shall be issued using the form contained at Exhibit D.

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

- a. Consultant shall prosecute the Work in a diligent and continuous manner and in accordance with all applicable notice to proceed, critical path schedule and guaranteed completion date requirements set forth in (or developed and agreed by the parties in accordance with) the Scope of Services.
- b. Consultant shall conduct regular meetings to update UTA's Project Manager regarding the progress of the Work including, but not limited to, any unusual conditions or critical path schedule items that could affect or delay the Work. Such meetings shall be held at intervals mutually agreed to between the parties.
- c. Consultant shall deliver monthly progress reports and provide all Contract submittals and other deliverables as specified in the Scope of Services.
- d. Any drawing or other submittal reviews to be performed by UTA in accordance with the Scope of Services are for the sole benefit of UTA and shall not relieve Consultant of its responsibility to comply with the Contract requirements.
- e. UTA will have the right to inspect, monitor and review any Work performed by Consultant hereunder as deemed necessary by UTA to verify that such Work conforms to the Contract requirements. Any such inspection, monitoring and review performed by UTA is for the sole benefit of UTA and shall not relieve Consultant of its responsibility to comply with the Contract requirements.
- f. UTA shall have the right to reject Work which fails to conform to the requirements of this Contract. Upon receipt of notice of rejection from UTA, Consultant shall (at its sole expense and without entitlement to equitable schedule relief) promptly re-perform, replace or re-execute the Work so as to conform to the Contract requirements.
- g. If Consultant fails to promptly remedy rejected Work as provided in Section 3.f, UTA may (without limiting or waiving any rights or remedies it may have) perform necessary corrective action using other contractors or UTA's own forces. Any costs reasonably incurred by UTA in such corrective action shall be chargeable to Consultant.

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

The Effective Date of this MSA shall be the last date of signature below. The Period of Performance shall commence on the date the first service task is issued hereunder and shall continue for a period of 60 months from such issuance date. This Contract may be further extended if the Consultant and UTA mutually agree to an extension evidenced in writing. The rights and obligations of UTA and Consultant under this Contract shall at all times be subject to and conditioned upon the provisions of this Contract.

### **5. COMPENSATION**

- a. For the performance of the Work, UTA shall pay Consultant in accordance with the payments provisions described in Exhibit B. Payments shall be made in accordance with the milestones or other payment provisions detailed in Exhibit B.
- b. UTA may withhold and/or offset from payment any amounts reasonably reflecting: (i) items of Work

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that have been rejected by UTA in accordance with this Contract; (ii) invoiced items that are not payable under this Contract; or (iii) amounts Consultant owes to UTA under this Contract.

## **6. INCORPORATED DOCUMENTS**

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

1. The terms and conditions of this MSA (including any exhibits and attachments hereto).
2. UTA's RFP including, without limitation, all attached or incorporated terms, conditions, federal clauses (as applicable), drawings, plans, specifications and standards and other descriptions of the Goods and Services;
3. Contractor's Proposal including, without limitation, all federal certifications (as applicable);

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

## **7. ORDER OF PRECEDENCE**

The Order of Precedence for this contract is as follows:

- UTA Contract including all attachments
- UTA Terms and Conditions
- UTA Solicitation Terms
- Contractor's Bid or Proposal including proposed terms or conditions

Any contractor proposed term or condition which is in conflict with a UTA contract or solicitation term or condition will be deemed null and void.

## **8. CHANGES**

- a. UTA's Project Manager or designee may, at any time, by written order designated or indicated to be a Change Order, direct changes in the Work including, but not limited to, changes:
  - A. In the Scope of Services;
  - B. In the method or manner of performance of the Work; or
  - C. In the schedule or completion dates applicable to the Work.

To the extent that any change in Work directed by UTA causes an actual and demonstrable impact to: (i) Consultant's cost of performing the work; or (ii) the time required for the Work, then (in either case) the Change Order shall include an equitable adjustment to this Contract to make Consultant whole with respect to the impacts of such change.

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- b. A change in the Work may only be directed by UTA through a written Change Order or (alternatively) UTA's expressed, written authorization directing Consultant to proceed pending negotiation of a Change Order. Any changes to this Contract undertaken by Consultant without such written authority shall be at Consultant's sole risk. Consultant shall not be entitled to rely on any other manner or method of direction.
- c. Consultant shall also be entitled to an equitable adjustment to address the actual and demonstrable impacts of "constructive" changes in the Work if: (i) subsequent to the Effective Date of this Contract, there is a material change with respect to any requirement set forth in this Contract; or (ii) other conditions exist or actions are taken by UTA which materially modify the magnitude, character or complexity of the Work from what should have been reasonably assumed by Consultant based on the information included in (or referenced by) this Contract. In order to be eligible for equitable relief for "constructive" changes in Work, Consultant must give UTA's Project Manager or designee written notice stating:
  - A. The date, circumstances, and source of the change; and
  - B. That Consultant regards the identified item as a change in Work giving rise to an adjustment in this Contract.

Consultant must provide notice of a "constructive" change and assert its right to an equitable adjustment under this Section within ten (10) days after Consultant becomes aware (or reasonably should have become aware) of the facts and circumstances giving rise to the "constructive" change. Consultant's failure to provide timely written notice as provided above shall constitute a waiver of Consultant's rights with respect to such claim.

- d. As soon as practicable, but in no event longer than 30 days after providing notice, Consultant must provide UTA with information and documentation reasonably demonstrating the actual cost and schedule impacts associated with any change in Work. Equitable adjustments will be made via Change Order. Any dispute regarding the Consultant's entitlement to an equitable adjustment (or the extent of any such equitable adjustment) shall be resolved in accordance with Article 21 of this Contract.

## **9. INVOICING PROCEDURES**

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

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## **10. OWNERSHIP OF DESIGNS, DRAWINGS, AND WORK PRODUCT**

Any deliverables prepared or developed pursuant to the Contract including without limitation drawings, specifications, manuals, calculations, maps, sketches, designs, tracings, notes, reports, data, models and samples (collectively "Work Product"), shall become the property of UTA when prepared, and, together with any documents or information furnished to Contractor and its employees or agents by UTA hereunder, shall be delivered to UTA upon request, and, in any event, upon termination or final acceptance of the Goods and Services. UTA shall have full rights and privileges to use and reproduce said items. For the avoidance of doubt, the parties acknowledge and agree that no Work Product is contemplated unless otherwise explicitly agreed in writing. To the extent that any deliverables include or incorporate preexisting intellectual property of Contractor including without limitation any developments to such preexisting intellectual property which may occur during the term of this Contract, Contractor hereby grants UTA a fully paid, limited license for the term otherwise agreed to by the Parties in one or more Service Task Orders to use such intellectual property for UTA's operation, maintenance, modification, improvement and replacement of UTA's assets. The scope of the license shall be to the fullest extent necessary to accomplish those purposes, including the right to share same with UTA's contractors, agent, officers, directors, employees, joint owners, affiliates and consultants. UTA acknowledges and agrees that Contractor may use any of UTA's data in order for Contractor for the sole purpose of providing the Services contemplated in Exhibit A and any Service Task Order and to otherwise enhance the services offered by Contractor.

## **11. USE OF SUBCONTRACTORS**

- a. Consultant shall give advance written notification to UTA of any proposed subcontract (not indicated in Consultant's Proposal) negotiated with respect to the Work. UTA shall have the right to approve all subcontractors, such approval not to be withheld unreasonably.
- b. No subsequent change, removal or substitution shall be made with respect to any such subcontractor without the prior written approval of UTA.
- c. Consultant shall be solely responsible for making payments to subcontractors, and such payments shall be made within thirty (30) days after Consultant receives corresponding payments from UTA.
- d. Consultant shall be responsible for and direct all Work performed by subcontractors.
- e. Consultant agrees that no subcontracts shall provide for payment on a cost-plus-percentage-of-cost basis.
- f. Consultant further agrees that all subcontractors and subcontracts shall comply with all applicable state and federal laws.
- g. UTA agrees that none of the following shall be deemed to constitute a subcontractor under this MSA nor shall Contractor be deemed to have employed any of the following, directly or indirectly : (i) independent contractor driver partners of Contractor, (ii) any vehicle supply partner of Contractor offering vehicle leasing or rental options to such independent contractor driver partners, or (iii) any third-party technology vendor offering solutions integrated by Contractor into its technology solution or otherwise used by Contractor.

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## 12. KEY PERSONNEL

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

## 13. [INTENTIONALLY OMITTED]

## 14. TERMINATION

- a. **FOR CONVENIENCE:** UTA shall have the right to terminate the Contract and any service task order issued at any time after the first three month anniversary of the Agreement by providing 90 days advance written notice to Contractor. If the Contract is terminated for convenience, UTA shall pay Contractor: (i) in full for Goods delivered and Services fully performed prior to the effective date of termination; and (ii) an equitable amount to reflect costs incurred (including Contract close-out and subcontractor termination costs that cannot be reasonably mitigated) and profit on work-in-progress as of to the effective date of the termination notice. UTA shall not be responsible for anticipated profits based on the terminated portion of the Contract. Contractor shall promptly submit a termination claim to UTA. If Contractor has any property in its possession belonging to UTA, Contractor will account for the same, and dispose of it in the manner UTA directs.
  
- b. **FOR DEFAULT:** If Contractor (a) becomes insolvent; (b) files a petition under any chapter of the bankruptcy laws or is the subject of an involuntary petition; (c) makes a general assignment for the benefit of its creditors; (d) has a receiver appointed; (e) should fail to make prompt payment to any subcontractors or suppliers; or (f) fails to comply with any of its material obligations under the Contract, UTA may, in its discretion, after first giving Contractor seven (7) days written notice to cure such default:
  1. Terminate the Contract (in whole or in part) for default and obtain the Goods and Services using other contractors or UTA's own forces, in which event Contractor shall be liable for all incremental costs so incurred by UTA;
  2. Pursue other remedies available under the Contract (regardless of whether the termination remedy is invoked); and/or
  3. Except to the extent limited by the Contract, pursue other remedies available at law.
  
- c. **CONTRACTOR'S POST TERMINATION OBLIGATIONS:** Upon receipt of a termination notice as provided above, Contractor shall (i) immediately discontinue all work affected (unless the notice directs otherwise); and (ii) deliver to UTA all data, drawings and other deliverables, whether completed or in process. Contractor shall also remit a final invoice for all services performed and expenses incurred in full accordance with the terms and conditions of the Contract up to the effective date of termination. UTA shall calculate termination damages payable under the Contract, shall offset such damages against Contractor's final invoice, and shall invoice Contractor for any additional amounts payable by Contractor (to the extent termination damages exceed the invoice). All rights and remedies provided in this Article are cumulative and not exclusive. If UTA terminates the Contract for any reason, Contractor shall remain available, for a period not exceeding 90 days, to UTA to respond to

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any questions or concerns that UTA may have regarding the Goods and Services furnished by Contractor prior to termination.

**15. INFORMATION, RECORDS and REPORTS; AUDIT RIGHTS**

Consultant shall retain all books, papers, documents, accounting records and other evidence to support any cost-based billings allowable under Exhibit B (or any other provision of this Contract). Such records shall include, without limitation, time sheets and other cost documentation related to the performance of labor services, as well as subcontracts, purchase orders, other contract documents, invoices, receipts or other documentation supporting non-labor costs. Consultant shall also retain other books and records related to the performance, quality or management of this Contract and/or Consultant’s compliance with this Contract. Records shall be retained by Consultant for a period of at least six (6) years after completion of the Work, or until any audit initiated within that six-year period has been completed (whichever is later). During this six-year period, such records shall be made available at all reasonable times for audit and inspection by UTA and other authorized auditing parties including, but not limited to, the Federal Transit Administration. Copies of requested records shall be furnished to UTA or designated audit parties upon request. Consultant agrees that it shall flow-down (as a matter of written contract) these records requirements to all subcontractors utilized in the performance of the Work at any tier.

**16. FINDINGS CONFIDENTIAL**

Any documents, reports, information, or other data and materials available to or prepared or assembled by Consultant or subcontractors under this Contract are considered confidential and shall not be made available to any person, organization, or entity by Consultant without consent in writing from UTA.

- a. It is hereby agreed that the following information is not considered to be confidential:
  - A. Information already in the public domain;
  - B. Information disclosed to Consultant by a third party who is not under a confidentiality obligation;
  - C. Information developed by or in the custody of Consultant before entering into this Contract;
  - D. Information developed by Consultant through its work with other clients; and
  - E. Information required to be disclosed by law or regulation including, but not limited to, subpoena, court order or administrative order.

**17. PUBLIC INFORMATION.**

Contractor acknowledges that the Contract and related materials (invoices, orders, etc.) will be public documents under the Utah Government Records Access and Management Act (GRAMA) except to the extent such materials are subject to exemptions under GRAMA, including but not limited to applicable trade secrets, confidential commercial or financial information, and personal information. Contractor’s response to the solicitation for the Contract will also be a public document subject to GRAMA, subject to all potentially applicable exemptions under GRAMA. Contractor has provided a written claim of confidentiality as required under UCA 63G-2-309, noting that this contract and related materials disclose details regarding its confidential

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business methods, including its unique methods to pricing and operationalizing on-demand transportation solutions which, if disclosed could unduly benefit Contractor’s competitors. Accordingly, in the event that UTA receives a request under GRAMA or otherwise to disclose this Contract or any of the other related materials referenced above, UTA agrees to provide Contractor timely notice of such a request and to assist Contractor in invoking any applicable exemptions.

**18. GENERAL INDEMNIFICATION**

Contractor shall indemnify, hold harmless and defend UTA, its officers, trustees, agents, and employees (hereinafter collectively referred to as “Indemnities”) from and against all liabilities, claims, actions, damages, losses, and expenses including without limitation reasonable attorneys’ fees and costs (hereinafter referred to collectively as “claims”) related to bodily injury, including death, or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the grossly negligent acts or omissions of Contractor or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of the failure of such Contractor to conform to federal, state, and local laws and regulations. If an employee of Contractor, a subcontractor, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable brings a claim against UTA or another Indemnities, Contractor’s indemnity obligation set forth above will not be limited by any limitation on the amount of damages, compensation or benefits payable under any employee benefit acts, including workers’ compensation or disability acts. The indemnity obligations of Contractor shall not apply to the extent that claims arise out of the sole negligence of UTA or the Indemnities.

NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, RELIANCE, OR PUNITIVE DAMAGES OR LOST OR IMPUTED PROFITS OR LOST DATA EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. OTHER THAN WITH RESPECT TO FEES PAID OR PAYABLE BY CUSTOMER EACH PARTY’S TOTAL LIABILITY FOR ALL CLAIMS ARISING IN CONNECTION WITH ALL AGREEMENTS WILL BE LIMITED TO DIRECT DAMAGES IN AN AMOUNT EQUIVALENT TO THE FEES PAID OR PAYABLE TO CONTRACTOR UNDER THIS AGREEMENT. UTA must bring all claims and causes of action within six (6) months of their being discovered or one (1) year after the expiration or termination of the Order out of which the claim arises, whichever comes first. The limitations and exclusions in this Section 18 apply to all claims or causes of action whatever theory brought and regardless of whether a party was advised of the possibility of a claim.

**19. INSURANCE REQUIREMENTS**

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

- A. MINIMUM SCOPE AND LIMITS OF INSURANCE: Contractor shall provide coverage with limits of liability not less than those Stated below. An excess liability policy or umbrella liability policy may be

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used to meet the minimum liability requirements provided that the coverage is written on a “following form” basis.

1. Commercial General Liability – Occurrence Form

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

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

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

2. Automobile Liability

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

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

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

3. Worker's Compensation and Employers' Liability

Workers' Compensation Statutory

Employers' Liability

Each Accident \$100,000

Disease – Each Employee \$100,000

Disease – Policy Limit \$500,000

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

4. Professional Liability (Errors and Omissions Liability)

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

Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

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

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

1. On insurance policies where the Utah Transit Authority is named as an additional insured, the Utah Transit Authority shall be an additional insured to the full limits of liability purchased by the Consultant. Insurance limits indicated in this agreement are minimum limits. Larger limits may be indicated after the consultant’s assessment of the exposure for this contract; for their own protection and the protection of UTA.
2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

C. NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the Utah Transit Authority, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to (Utah Transit Authority agency Representative's Name & Address).

D. ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers duly licensed or authorized to do business in the State and with an “A.M. Best” rating of not less than A-VII. The Utah Transit Authority in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. VERIFICATION OF COVERAGE: Contractor shall furnish the Utah Transit Authority with certificates of insurance (on standard ACORD form) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be sent to insurancecerts@rideuta.com and received and approved by the Utah Transit Authority before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain

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in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be emailed directly to Utah Transit Authority's insurance email address at [insurancecerts@rideuta.com](mailto:insurancecerts@rideuta.com). The Utah Transit Authority project/contract number and project description shall be noted on the certificate of insurance. The Utah Transit Authority reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. DO NOT SEND CERTIFICATES OF INSURANCE TO THE UTAH TRANSIT AUTHORITY'S CLAIMS AND INSURANCE DEPARTMENT.

- F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insured's under its policies or subcontractors shall maintain separate insurance as determined by the Contractor, however, subcontractor's limits of liability shall not be less than \$1,000,000 per occurrence / \$2,000,000 aggregate. Sub-contractors maintaining separate insurance shall name Utah Transit Authority as an additional insured on their policy. Blanket additional insured endorsements are not acceptable from sub-contractors. Utah Transit Authority must be scheduled as an additional insured on any sub-contractor policies.
- G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by Claims and Insurance Department or the Office of General Counsel, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

## **20. OTHER INDEMNITIES**

- a. Consultant shall protect, release, defend, indemnify and hold harmless UTA and the other Indemnities against and from any and all Claims of any kind or nature whatsoever on account of infringement relating to Consultant's performance under this Contract. If notified promptly in writing and given authority, information and assistance, Consultant shall defend, or may settle at its expense, any suit or proceeding against UTA so far as based on a claimed infringement and Consultant shall pay all damages and costs awarded therein against UTA due to such breach. In case any portion of the Work is in such suit held to constitute such an infringement or an injunction is filed that interferes with UTA's rights under this Contract, Consultant shall, at its expense and through mutual agreement between the UTA and Consultant, either procure for UTA any necessary intellectual property rights, or modify Consultant's services or deliverables such that the claimed infringement is eliminated.
- b. Consultant shall: (i) protect, release, defend, indemnify and hold harmless UTA and the other Indemnities against and from any and all liens or Claims made or filed against UTA or upon the Work or the property on which the Work is located on account of any labor performed or labor, services, and equipment furnished by subcontractors of any tier; and (ii) keep the Work and said property free and clear of all liens or claims arising from the performance of any Work covered by this Contract by Consultant or its subcontractors of

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any tier. If any lien arising out of this Contract is filed, before or after Work is completed, Consultant, within ten (10) calendar days after receiving from UTA written notice of such lien, shall obtain a release of or otherwise satisfy such lien. If Consultant fails to do so, UTA may take such steps and make such expenditures as in its discretion it deems advisable to obtain a release of or otherwise satisfy any such lien or liens, and Consultant shall upon demand reimburse UTA for all costs incurred and expenditures made by UTA in obtaining such release or satisfaction. If any non-payment claim is made directly against UTA arising out of non-payment to any subcontractor, Consultant shall assume the defense of such claim within ten (10) calendar days after receiving from UTA written notice of such claim. If Consultant fails to do so, Consultant shall upon demand reimburse UTA for all costs incurred and expenditures made by UTA to satisfy such claim.

**21. INDEPENDENT CONTRACTOR**

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

**22. PROHIBITED INTEREST**

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

**23. CLAIMS/DISPUTE RESOLUTION**

- a. "Claim" means any disputes between UTA and the Contractor arising out of or relating to the Contract Documents including any disputed claims for Contract adjustments that cannot be resolved in accordance with the Change Order negotiation process set forth in Article 6. Claims must be made by written notice. The responsibility to substantiate claims rests with the party making the claim.
- b. Unless otherwise directed by UTA in writing, Contractor shall proceed diligently with performance of the Work pending final resolution of a Claim, including litigation. UTA shall continue to pay any undisputed payments related to such Claim.
- c. The parties shall attempt to informally resolve all claims, counterclaims and other disputes through the escalation process described below. No party may bring a legal action to enforce any term of this Contract without first having exhausted such process.
- d. The time schedule for escalation of disputes, including disputed requests for change order, shall be as follows:

**Level of Authority**

**Time Limit**

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UTA's Project Manager/Contractor's Project Manager	Five calendar days
UTA's Chief Planning and Engagement Officer/ <a href="#">Via Transportation, Inc.'s</a> VP of Transportation-as-a-Service	Five calendar days
UTA's Executive Director/ <a href="#">Via Transportation, Inc.'s</a> Global Head of Operations	Five calendar days

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

If the dispute cannot be resolved informally in accordance with the escalation procedures set forth above, then either party may commence formal mediation under the Juris Arbitration and Mediation (JAMS) process using a mutually agreed upon JAMS mediator. If resolution does not occur through Mediation, then legal action may be commenced in accordance the venue and governing law provisions of this contract.

#### **24. GOVERNING LAW**

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

#### **25. ASSIGNMENT OF CONTRACT**

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

#### **26. NONWAIVER**

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

#### **27. NOTICES OR DEMANDS**

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

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

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

If to Consultant:  
River North Transit LLC c/o Via Transportation Inc.  
10 Crosby Street, 2<sup>nd</sup> Floor  
New York, NY 10013

With a required copy to:  
legal@ridewithvia.com

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

**28. CONTRACT ADMINISTRATOR**

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

**29. INSURANCE COVERAGE REQUIREMENTS FOR CONSULTANT EMPLOYEES**

- a. The following requirements apply to the extent that: (i) the initial value of this Contract is equal to or in excess of \$2 million; (ii) this Contract, with subsequent modifications, is reasonably anticipated to equal or exceed \$2 million; (iii) Consultant has a subcontract at any tier that involves a sub-consultant that has an initial subcontract equal to or in excess of \$1 million; or (iv) any subcontract, with subsequent modifications, is reasonably anticipated to equal or exceed \$1 million:
- b. Consultant shall, prior to the effective date of this Contract, demonstrate to UTA that Consultant has and will maintain an offer of qualified health insurance coverage (as defined by Utah Code Ann. § 17B-2a-818.5) for the Consultant’s employees and the employee’s dependents during the duration of this Contract.
- c. Consultant shall also demonstrate to UTA that subcontractors meeting the above-described subcontract value threshold have and will maintain an offer of qualified health insurance coverage (as defined by Utah Code Ann. § 17B-2a-818.5) for the subcontractor’s employees and the employee’s dependents during the duration of the subcontract.

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### **30. COSTS AND ATTORNEYS FEES**

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

### **31. ANTIDISCRIMINATION**

1. Employment Practices. Offeror hereby declares that it is and will remain fully compliant with the provisions of the Utah Anti-discrimination Act (UTAH CODE §§ 34A-5-101 TO 34A-5-108) and the equivalent anti-discrimination laws of its State of incorporation and/or headquarters location. Under the Act, an employer may not refuse to hire, promote, discharge, demote, or terminate a person, or to retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against a person otherwise qualified, because of: race, color, sex, pregnancy, childbirth, or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; disability; sexual orientation; or gender identity.
2. Goods and Services Provided to UTA. In addition to avoiding discriminatory employment practices as described above, Offeror also declares that all goods and services it provides to UTA are useable and accessible by individuals with disabilities as described in Title II of the American with Disabilities Act and also Section III (H) of UTA Policy 6.1.1 which states that programs, services, and facilities procured by UTA will be accessible to and useable by individuals with disabilities. Offeror further certifies that any digital software, tool, program or web application must meet the most recent version of the Web Content Accessibility Guidelines (WCAG) found at <https://www.w3.org/TR/WCAG21>. To the extent Offeror is providing transportation services, vehicles or facilities it also declares that it is in compliance with Department of Transportation (DOT) ADA standards found at 49 CFR Parts 27, 37, 38, and 39.

### **32. NO THIRD-PARTY BENEFICIARY**

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

### **33. FORCE MAJEURE**

Neither party to the Contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which are beyond that party's reasonable control. UTA may terminate the Contract after determining such delay or default will reasonably prevent successful performance of the Contract.

### **34. UTAH ANTI-BOYCOTT OF ISRAEL ACT**

Pursuant to the Utah Anti-Boycott of Israel Act (UCA 63G-27-101), Contractor agrees it will not engage in a boycott of the State of Israel for the duration of this contract.

### **35. SEVERABILITY**

Any provision of this Contract prohibited or rendered unenforceable by operation of law shall be ineffective

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only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Contract.

**36. ENTIRE AGREEMENT**

This Contract shall constitute the entire agreement and understanding of the parties with respect to the subject matter hereof, and shall supersede all offers, negotiations and other agreements with respect thereto. The terms of the Contract supersede any additional or conflicting terms or provisions that may be preprinted on Vendor's work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of Vendor that may subsequently be used to implement, record, or invoice Goods and/or Services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of UTA. The terms of the Contract prevail in any dispute between the terms of the Contract and the terms printed on any such standard forms or documents, and such standard forms or documents will not be considered written amendments of the Contract.

**37. AMENDMENTS**

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

**38. COUNTERPARTS**

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

**39. SURVIVAL**

Provisions of this Contract intended by their nature and content to survive termination of this Contract shall so survive including, but not limited to, Articles 5, 7, 8, 10, 14, 15, 17, 18, 19, 20, 23, 29 and 30.

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

**UTAH TRANSIT AUTHORITY:**

By \_\_\_\_\_  
Mary DeLoretto  
Interim Executive Director  
Date: \_\_\_\_\_

By \_\_\_\_\_  
Nichol Bourdeaux  
Chief Planning and Engagement Officer  
Date: \_\_\_\_\_

By  
Michael Bell  
UTA Legal Counsel  
Date: \_\_\_\_\_

**RIVER NORTH TRANSIT LLC:**

DocuSigned by:  
By Erin Abrams  
Name Erin Abrams  
Title Manager  
Date: 7/29/2021

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date: \_\_\_\_\_

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**EXHIBIT A – GENERAL SCOPE OF SERVICES (WORK)**

*Note: Specific Service Task Orders shall be issued as needed which will contain a more detailed description of the work to be accomplished which is generally associated with the broadly construed scope of work described below.*

**A. SCOPE OF WORK**

Plan, design, operate, and provide on-demand services and other innovative technologies which support UTA microtransit, paratransit, fixed route, or vanpool services throughout the UTA service area in support of UTA’s Five-Year Service Plan (5YSP) and other innovative strategic goals and objectives. All types of services provided under an agreement must be State and Federally compliant, Americans with Disabilities Act (ADA) complaint, and Title VI compliant as to provide equitable services to the communities served by UTA. In addition to compliance, with all types of service provided under this agreement UTA will consider how to advance access to opportunities and improve transportation equity by continually reviewing service delivery, ridership, and community feedback.

**1. TRANSPORTATION AS A SERVICE (TaaS) SOLUTIONS**

Plan, design, operate, and iterate on-demand and microtransit services/pilots utilizing TaaS models to support UTA’s 5YSP and other on-demand services as determined by UTA. TaaS solutions should include a full turn-key solution which supports all aspects of a service/pilot including, but not limited to, contractor provided technology solutions (mobile app), vehicles, vehicle maintenance and cleaning, drivers, and customer service capabilities. The contractor should be able to provide the following services as part of a TaaS solution.

**1.1 Personnel**

- Provide all necessary personnel such as drivers, mechanics (or maintenance contracts), administrative, customer service agents, project managers, and others to successfully operate a TaaS service:
  - Contractor provided, qualified drivers with good customer service skills, serving people with disabilities, mobility devices, and legally qualified for safe vehicle operations.
  - Contractor should establish minimum standards and driver qualification requirements pursuant to applicable state and federal regulations if applicable which instill an elevated level of public confidence and safety when using the service.
  - Contractor to ensure that a Utah Bureau of Criminal Identification (BCI) background check is conducted on all drivers as part of driver recruitment.
  - Contractor to conduct drug testing as part of driver recruitment, including following all applicable Federal Transit Administration (FTA) guidelines on post incident/accident drug and alcohol testing or reasonable suspicion drug and alcohol testing.
  - Contractor to provide all technical onboarding and support as well as implement a structure for ongoing safety and service reminders
  - Ability to adapt onboarding and other informational materials to ensure that personnel are made aware of applicable future changes or requirements by the State of Utah, Federal Transit Administration, Center for Disease Control and Prevention, etc.

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- UTA has contracted with the Utah Division of Services for People with Disabilities (DSPD) to provide paratransit services to and from a person’s home or living facility or community habilitations program or facilities that provide day support. In addition to the requirements above all driving personnel should meet DSPD requirements in order to transport a DSPD paratransit customer:
  - Maintain a current driver license as required in accordance with Utah State law.
  - Drivers are not permitted to provide services to DSPD customers without direct line-of-sight supervision until the staff receives onboarding for working with persons with disabilities, as documented by the vendor, and until the staff passes a background check as required in Utah Code 62A-2-120(1)(a)(iv).
  - Drivers are approved per initial registration background screening application approvals, as described in R501-14, utilizing the standards described in Utah Code 62A-5-103.5(5).
  - Drivers are familiar with, and annually review, sign, and comply with the DSPD Code of Conduct (to be provided by UTA).
  - Ability to adapt to future changes or requirements by the DSPD.

## 1.2 Vehicles

- Contractor supplied vehicles including options for traditional fuel and electric vehicles. Vehicles should meet ridership demand, service parameters, and perform safely in weather conditions common to the Wasatch Front Region.
- Ability to expand or reduce vehicles as required to meet changes in service demand or expansion.
- Provide Americans with Disabilities Act (ADA) compliant wheelchair accessible vehicles (WAV) to provide an equivalent level of service for customers requiring a WAV.
- Vehicles to remain in a state of good repair, all maintenance to be managed by the contractor.
- Vehicles to be cleaned regularly by the contractor.
  - Contractor to provide enhanced cleaning procedures to ensure customer health and safety (i.e. support COVID-19 cleaning and safety protocols as recommended by the Centers for Disease Control and Prevention (CDC)).

## 1.3 Vehicle Storage Facilities

- UTA will collaborate with the contractor to identify optimal vehicle storage locations which UTA may own or lease as part of a TaaS service. In the event UTA and the contractor are unable to identify an optimal vehicle storage location, the contractor will be required to identify on their own and lease an optimal vehicle storage facility.

## 1.4 Fuel

- UTA has established partnerships in the fleet fueling industry to obtain discounted fuel rates for various UTA fleets and services. If UTA and the contractor deploy a service which uses traditional fuel vehicles, UTA will provide the contractor with access to its fuel card network and establish an independent account for the sole purpose of fueling vehicles which are operated as part of a TaaS solution. Fuel card services are customizable, and the contractor will determine the level of desired reporting and controlled spending limits on a card-by-card basis.
- UTA will pay the monthly fuel expenses in a TaaS solution to optimize the fuel discounts received which thereby reduce operating costs. The contractor should not include fuel costs in any TaaS pricing models.

## 1.5 Electric Vehicle Charging

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- If UTA and the contractor deploy a service which uses an electric vehicle or fleet of electric vehicles, UTA will collaborate with the contractor to identify optimal vehicle charging locations. Responsibility for payment of electric vehicle charging expenses will be determined on a case-by-case basis. Contractor and UTA shall continuously seek to advance, optimize and implement electric and renewable energy vehicle technologies.

### **1.6 Ride Booking Technologies**

- A consumer-facing smartphone application for a fully automated scheduling, dispatching and reserving demand responsive transit service as described in **Section 2, Software as a Service (SaaS) Solutions.**

### **1.7 Customer Support Services**

- To be provided by the contractor with additional UTA support through the UTA Customer Service Department.
- Maintain ADA compliance and ability to communicate with, book on-demand, and pay for ride services through telephone or web-based services for customers without a smartphone.

### **1.8 Insurance**

- Contractor shall maintain insurance for all operations of a TaaS service and provide proof of said insurance to UTA. Insurance requirements and types are described in Part 4 of this RFP.

### **1.9 Regulations and Compliance**

- Compliance with Title VI and Americans with Disabilities Act (ADA) regulations.
- Compliance with any other required items for legally and safely operating a transportation service in the State of Utah.
- Compliance with any other required items for legally and safely operating a transportation service in accordance with federal regulations.

### **1.10 Operating Plans and Policies**

- Contractor provided service implementation plans.
- Contractor provided standard operating procedures, safety plans and procedures, and project evaluation plans.
- Ability to transport minors traveling with or without an adult as per UTA policy.

### **1.11 Marketing and Communications**

- UTA marketing personnel and marketing consultants will generally lead the creation of a marketing strategy and plan, customer acquisition plan, and any related marketing collateral. The contractor shall collaborate in these efforts to ensure marketing material is on-brand, following best practices, and to share lessons learned from previous experience.
- The contractor will work with UTA on promotional and marketing efforts under general strategy.
- UTA's preference is to be a UTA branded service.

### **1.12 Iterations**

The contractor shall work with UTA to be responsive to lessons learned and customer feedback to iterate aspects of the service/pilot as quickly as possible. As the service evolves, UTA may desire to explore additional features such as:

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- Ability to accommodate child seats, strollers, service animals, bicycles, winter sport equipment, other passenger cargo, etc.
- Electric vehicle fleets.
- Automated and autonomous vehicles.
- Other features to be determined as guided by UTA and vendor recommendations and customer feedback.

## **2. SOFTWARE AS A SERVICE (SaaS) SOLUTIONS**

Provide technologies, mobile app solutions, UTA project support, and customer support services for on-demand and microtransit services/pilots, TaaS solutions (as described above), ADA compliant paratransit software services, fixed bus route seat reservation services, and vanpool seat reservation services. UTA prefers to limit the customer facing technologies to a single app as to provide a unified transportation system and experience which is simple and easy to use for the customer. The contractor should be able to provide the following services as part of a SaaS solution.

### **2.1 Ride Booking Technologies**

- A consumer-facing smartphone application for a fully automated scheduling, dispatching, and reserving demand responsive transit service.
- ADA compliant prebooking services.
- A concierge service interface for UTA staff to book a trip on the behalf of a customer or for customers who do not have or do not choose to use a smart phone.
- Ability for caretakers to book a trip for select customers with disabilities, as determined by UTA.
- An intake system which is capable of intelligently pooling customer pick-ups and drop-offs.
- Ability to integrate with UTA systems and applications.
- Ability to transport minors traveling with or without an adult as per UTA policy.
- Customer access to account and ride history (when utilizing a smartphone application).

### **2.2 Trip Characteristics**

The following is a list of UTA desired trip characteristics. The contractor provided technology solution should allow for UTA and the contractor to make adjustments or changes to the trip characteristics on a case-by-case basis:

- Pooled rides of 1 or more passengers.
- Maximum wait time for pickup: 25 minutes.
- Average wait time for pickup: 15 minutes or less.
- Percent of ride requests completed: 80% or higher.
- Average walk distance to stop: 0.10 miles.
- Maximum walk distance to stop: 0.25 miles.
- Maximum total trip time from boarding to alighting: Customer experience is an acceptable alternative to driving a personal vehicle.
- Equivalent service standards and pick-up wait times for WAV requests.

### **2.3 Driver Facing Technologies**

- A driver facing technology which supports the operations of on-demand and advanced reservation services as described in this RFP.
- Drivers should have easy access to technology that supports exceptional customer service and safe driving.

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- Contractor to provide detailed specifications on driver app, safety technology (i.e. telematics or cameras), and other relevant driver-facing interfaces.

## **2.4 Routing**

- A dynamic routing algorithm able to combine trips that generates pick-up and drop-off locations as well as vehicle routing.
- Ability to set parameters for either scheduled service points, virtual service points, or customer determined service points within a service area or zone.
- Ability to provide corner-to-corner service for customers to obtain operational efficiencies (requiring customer to walk certain distances to meet a vehicle, to be determined by UTA).
- Ability to provide curb-to-curb service from the nearest accessible building entrance for select customers with mobility difficulties (to be determined by UTA).
- Ability to add passengers to a route in progress.
- Maximum time added based on reroute to pick-up passengers: Customer experience is not more than 5 minutes late from the quoted time.
- Ability to integrate with UTA systems.
- Ability to continuously improve routing and mapping based on customer feedback, safety concerns, etc.

## **2.5 Passenger Pick-Up**

- Safety for all users (including bicyclists and pedestrians) to be prioritized in all passenger pick-up locations (vendors should not pick-up passengers in bike lanes or other areas that effect the safety of bicyclists or pedestrians).
- Maximum driver wait time for passenger pickup: 3 minutes.
- Customers to see pick-up location and trip routing via smartphone app.
- If necessary, customers to communicate directly with driver to coordinate pick-up.

## **2.6 Passenger Drop-Off**

- Safety for all users (including bicyclists and pedestrians) to be prioritized in all passenger drop-off locations (vendors should not drop-off passengers in bike lanes or other areas that affect the safety of bicyclists or pedestrians).
- Customers to see drop-off location and trip routing via smartphone app.

## **2.7 Connections to Paratransit Services**

- Coordinated connections with UTA paratransit services which optimizes the customer experience and minimizes wait times between on-demand and paratransit services.
- Ability to integrate with UTA's systems and applications such as Trapeze, to provide driver and/or passenger information regarding their connecting service.
- Ability to pre-schedule a connection to Paratransit services in advance.
- Ability to pre-schedule recurring connections (subscription trips).

## **2.8 Fixed Route Bus and Vanpool Reservation Services**

- Using a reservation system, allow UTA customers to book a seat in advance on a bus they wish to take. The customer should be able to track their vehicle in real-time prior to pick-up with an active driver app onboard each bus or vanpool.
- Advance ride booking features allowing customers to book their seat days or minutes in advance, as determined by UTA.

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- Advanced ride booking features allowing customers to pay for their trip.
- Ability to control the number of available seats or capacity limits on each vehicle in order to enable effective and safe social distancing.
- If a rider requests a ride on a bus that is at maximum capacity, they should be able to request a different time.

## **2.9 Fare Payment**

- Inclusion of UTA electronic and paper fare products transferable to other UTA services and modes.
- Ability to provide promotional or discounted fares.
- Fare structure that accommodates customer-specific discounts (i.e. reduced senior rate).
- Payment to be verified/validated via smartphone or a physical ticket.
- Fare revenue remitted to the agency or deducted from monthly billing.
- Auditable fare revenue collection process; flow of funds to be certified.
- Ability to accept unbanked customers without access to debit or credit cards.
- Payment Card Industry (PCI) compliance for credit card collection services.
- Alternatives to cash fare collection (UTA currently collects cash on all its local services. The agency is open to testing alternatives to cash collection).

## **2.10 Customer Support**

- If necessary, access to contractor’s customer support services to book on-demand and pay for ride services through telephone or web-based services for customers without a smartphone.

## **3. MOBILITY AS A SERVICE (MaaS) SOLUTIONS**

Ability to integrate TaaS and SaaS solutions with UTA and other mobility providers, public or private, which enhance the overall transportation system along the Wasatch Front region:

- MaaS requires open APIs that allow for integration flexibility.
- Integration with existing UTA-preferred trip planning applications (currently these are Transit App, Google Maps, and Trapeze).
- Integration with UTA fare payment systems and technologies such as UTA’s smart card for fare payment (FAREPAY) and mobile ticketing app Go Ride (currently operated by Passport).
- Integrations with future UTA fare payment systems and 3<sup>rd</sup> party software providers.
- The core intent of MaaS is to provide an option that is as reliable and as flexible as owning a private vehicle, at a fraction of the cost.

## **4. FUTURE OPPORTUNITIES**

As these requirements are not yet known, it is not possible to outline a scope of work for future opportunities. Contractors should expect that UTA will surface new needs which require fresh scoping and cost estimates. Contractor and UTA would then collaborate to develop a new scope of work agreement for additional pilots or services.

## **5. SUPPORT SERVICES**

### **5.1 Project Management and Support**

- On-demand and microtransit simulation services.

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- On-demand and microtransit planning and support.
- Project management team and support.
- Customer service support.
- Data analytics support.
- Marketing and communications services and support.
- Other support as necessary.

## 5.2 Metrics

The following metrics will be used to evaluate a service or pilot, as applicable. Contractor should collaborate with UTA to define or provide other relevant metrics which support the evaluation of project goals and objectives if not listed below:

### Service Metrics

- Standard National Transit Database data
- Number of customers
- Number of customers per vehicle hour (utilization)
- Number of unique users
- Number of app downloads
- Number of repeat users
- Number of new UTA transit users
- Percent of shared rides
- Percent of trips to/from transit hubs (geofenced)
- Number of vehicles in service by vehicle type
- Other service metrics relevant to UTA contracted services such miles between accidents, avoidable vs. non-avoidable accidents, miles between breakdowns, customer complaints, etc.

### Customer Experience Metrics

- Average wait time as measured from the ride request to passenger pick up
- On-time performance as measured from the quoted pick up time to the actual pick up time
- Percent of ride requests completed v. cancelled due to lack of supply
- Usage through app v. call center
- Customer satisfaction rating
- Usage of various UTA fare products
- Equivalent service for customers requiring WAVs
- Usage of WAVs or other accessible mobility options
- Performance to customer service targets
- Trip characteristics such as pick up time stamp, origin, and travel distance

### Economic Metrics, as Applicable

- Cost per rider
- Cost per hour
- Cost per vehicle-hour
- Cost per vehicle

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### 5.3 Evaluation

Reporting on metrics should begin with a benchmarking of existing conditions prior to service/pilot launch. Metrics should be collected and reported to UTA on a regular basis (as determined by UTA and the contractor) including a quarterly report. Each quarterly report should include proposed changes and iterations for the next reporting period and include any significant changes that need to be made to the program.

### 5.4 Data

UTA desires full access and ultimate ownership of all data associated with the pilot to shape strategic planning efforts. The exact data requirements will be determined prior to project launch and may be updated.

The contractor shall work with UTA to provide data via an API and/or an online reporting portal, dashboard, or an auto-generated report. See data requirement details under **Part 2, Procurement Process Information**. While UTA needs detailed usage data to understand aggregate travel patterns, UTA does not want to receive any personally identifiable information.

Data shall be made available in a manner that protects user privacy. Vendor shall notify UTA and customers of any data breach, privacy violations, and/or other incidents within thirty (30) days of event.

### 5.5 UTA Provisions

The following list is a summary of what UTA may provide to support the operations of on-demand services and technologies. **It is assumed that the selected service provider would handle all other aspects.**

- To help manage and scale a service or pilot:
  - Strategic program oversight.
  - Program budget.
- To help promote a service or pilot:
  - Marketing support.
  - Public sector engagement with local governments and non-profits.
  - Private sector engagement with business partners, large employers, etc.
  - Public relations, community outreach, and communications support.
  - Limited time discounts to encourage trial.
- To help plan and operate a service or pilot:
  - Curb space at UTA transit hubs.
  - Wayfinding signage at UTA transit hubs.
  - Guidance on regulatory compliance.
  - Guidance on ADA requirements and serving customers with disabilities.
  - Dispatch support for paratransit customers needing paratransit connections.
  - Safety and security support.
  - UTA Police Department support.
  - Customer service and/or customer service support.

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**EXHIBIT B – PRICING**

*Note: Specific Service Task Orders shall be issued as needed which will contain a detailed description of work to be performed and detailed NTE pricing based upon the pricing information shown below.*

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**River North Transit LLC**

(a wholly owned subsidiary of Via Transportation, Inc.)  
160 Varick Street, 4th Floor, New York, NY 10013

**Subject:** RFP for On-Demand Technologies and Innovative Mobility Services (#20-03399BM)  
**To:** Utah Transportation Authority (UTA)  
**Attn:** Brian Motes, Procurement and Contracts Specialist

Dear Mr. Motes,

Please find herein River North Transit LLC’s (“Via”) **Price Proposal** in response to the Utah Transit Authority’s (UTA) RFP for On-Demand Technologies and Innovative Mobility Services.

In the pages that follow, we provide:


- An overview of **Via’s cost formula** for TaaS, SaaS, and MaaS Solutions, as well as Future Opportunities and Support Services for UTA over the life of the agreement
- A **TaaS** price proposal for the **South Davis County on-demand Pilot** (using the above cost models)
- A **SaaS** price proposal for the **Tooele County on-demand Pilot** (using the above cost models)
- **Pilot zone calculations** using the above cost models
- Via’s innovative approaches to financial partnerships

**Via is committed to delivering the best value for money to UTA.** With over 200 deployments around the world, direct familiarity with the Wasatch Front Region, and experience operating a TaaS service for UTA, our proposal reflects a realistic understanding of the scope of effort and resources required to provide the services outlined by UTA.

Our pricing terms are flexible; we are experienced at structuring our pricing within various budget constraints and according to distinct service priorities. We welcome further conversation to discuss contract terms and option years to ensure we provide the best solution available to meet UTA’s needs and budget.

If UTA has any questions on this proposal, we would be happy to provide additional information.

Authorized Corporate Officer:

Digitized by  
  
 \_\_\_\_\_  
**Alex Lavoie**  
 Manager, River North Transit LLC  
 Global Head of Operations, Via  
 Transportation, Inc.

Authorized Contacts:

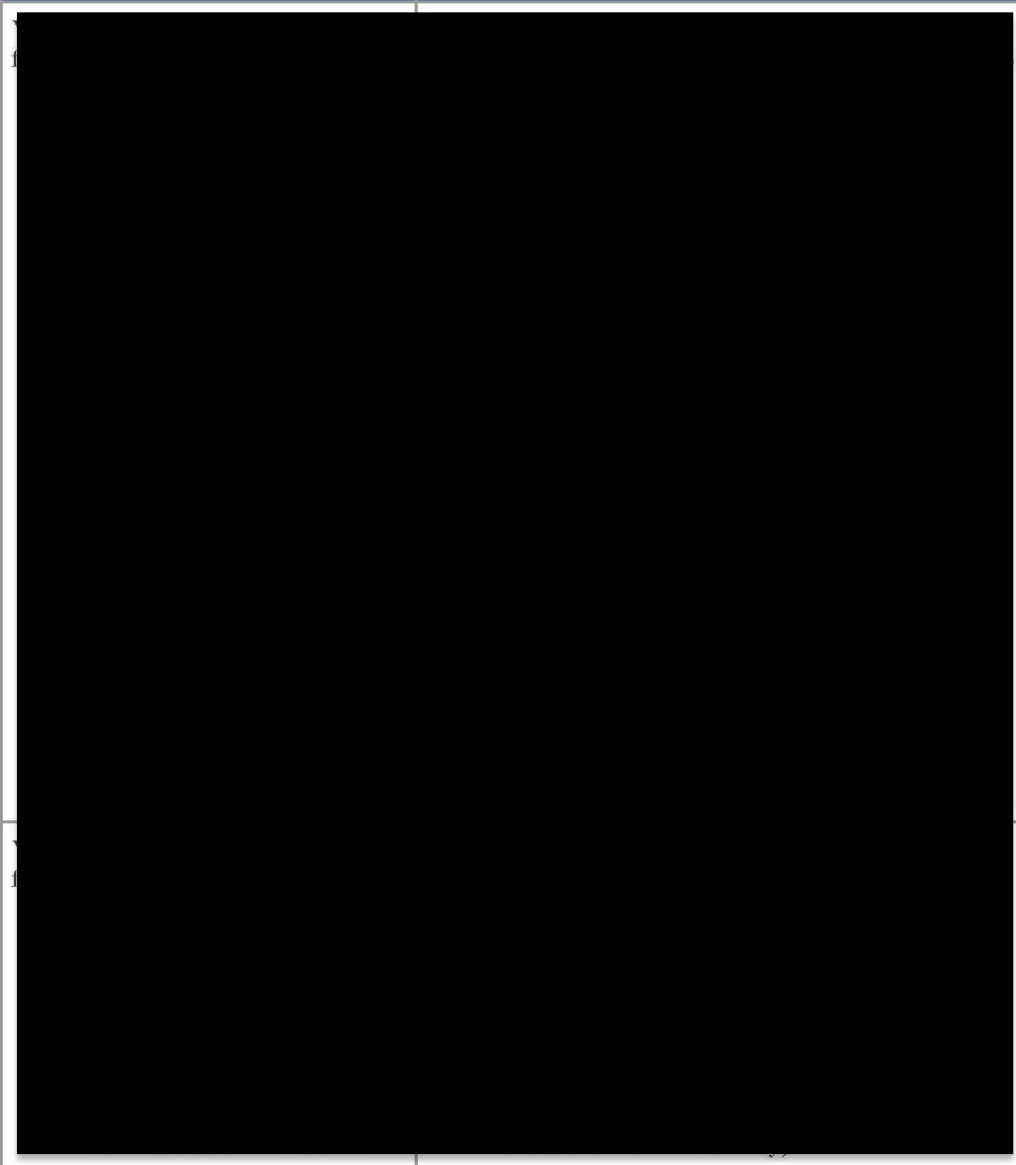
**Dan Schlaff**  
 Director of Strategy  
 Via Transportation, Inc.  
 (617) 851-6593  
 dan.schlaff@ridewithvia.com

**Asaf Zilberfarb**  
 Strategy Principal  
 Via Transportation, Inc.  
 (603) 277-1164  
 asaf.zilberfarb@ridewithvia.com

**Contractor makes a claim of confidentiality under Utah Code Annotated 63G-2-309. Contract and Exhibits are claimed to be Protected Records under Utah Code Annotated 63G-2-305 subsections (1) and (2).**

## 1. Cost Formulas for UTA

In the following table we provide Via's cost structure for all solutions outlined in the RFP. The right-most column specifies how we have adapted our general cost models to provide additional discounts for UTA.

General Cost Model	Cost Model Formula	<u>Discounted</u> Model for UTA
TaaS Solutions		
SaaS Solutions		

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<b>MaaS Solutions</b>	
<b>Future Opportunities</b>	

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<b>Support Services</b>	
-------------------------	--

## 2. South Davis County On-demand Pilot (TaaS)

Below we provide our pricing proposal for the South Davis County TaaS On-demand Pilot, based on the service parameters described in the Microtransit Project Planning Report, page 31-32. **The low-demand scenario requested in the RFP is depicted on the left-most column below.**

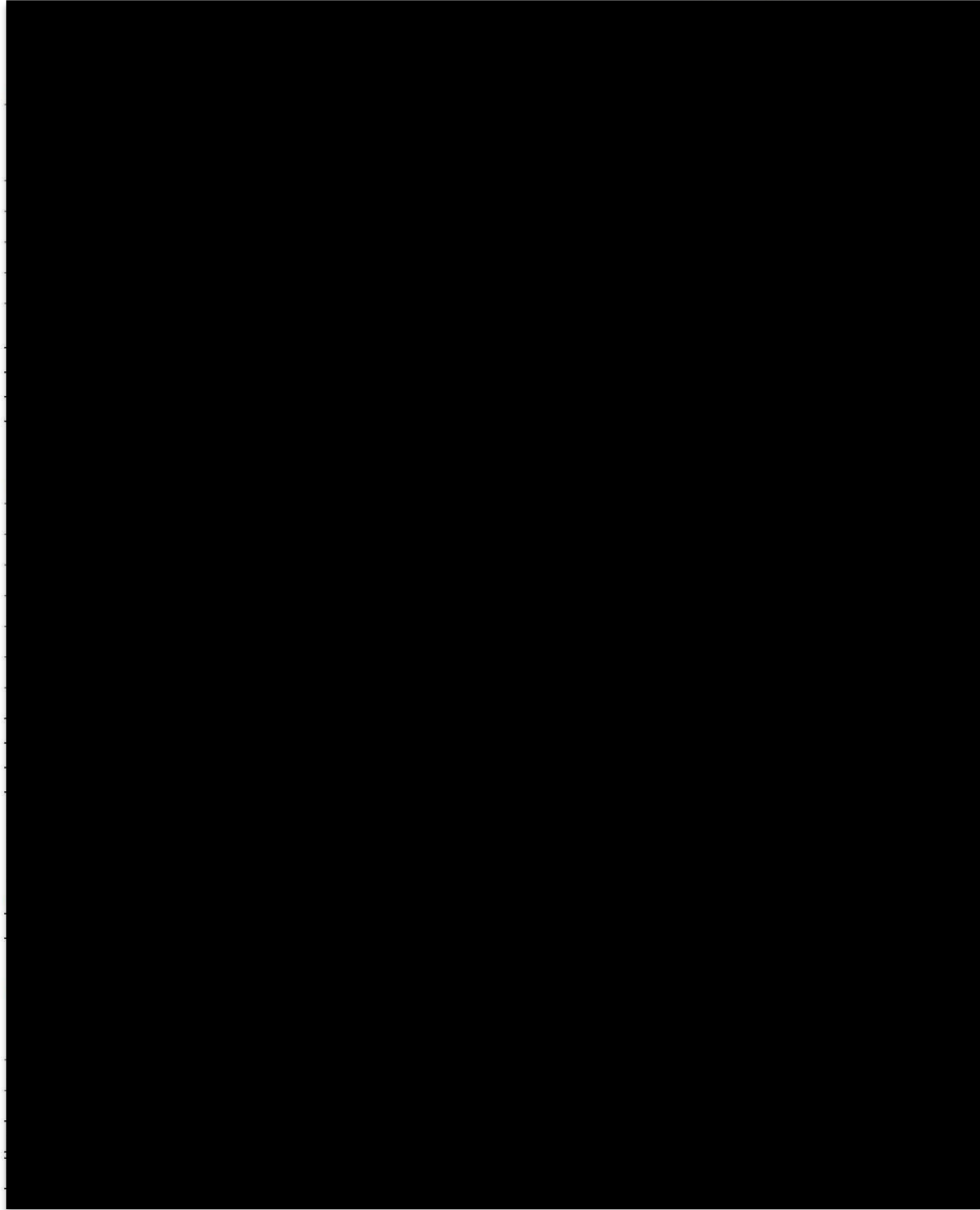
South Davis Park TaaS Scenarios	
<b>Total Annual Cost</b>	
<b>Total Vehicle Hours</b>	
<b>Annual Fee for Technology &amp; Dedicated IT Operations (1)</b>	
<b>Total Cost / Driver Hour</b>	
<i>Memo: Total Cost / Driver Hour (Excl. Vehicle Rental)</i>	
<i>Memo: Expected Utilization</i>	
<i>Memo: Total Estimated Price / Ride</i>	

(1) Includes Via technology access fees, cloud hosting costs (Amazon Web Services, Google Maps), third-party licensing fees for data capture, database maintenance and data visualization tools (Snowflake, Alooma, mParticle, AppsFlyer), telecommunications applications (Twilio, Leanplum, Mailchimp, and Mandrill), and customer service software (Zendesk); in addition to ongoing monthly maintenance fees for the UTA FAREPAY/pass card integration and other software maintenance costs.

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### 3. Tooele County On-demand Pilot (SaaS)

Below we provide our pricing proposal for the Tooele County SaaS On-demand Pilot, based on the service parameters described in the Microtransit Project Planning Report, page 43-44. **The medium-demand scenario requested in the RFP is depicted on the middle column of the “Illustrative Total Cost for Tooele County Deployment” section below.**



## 4. Pilot Zone Cost Calculations Using Price Model

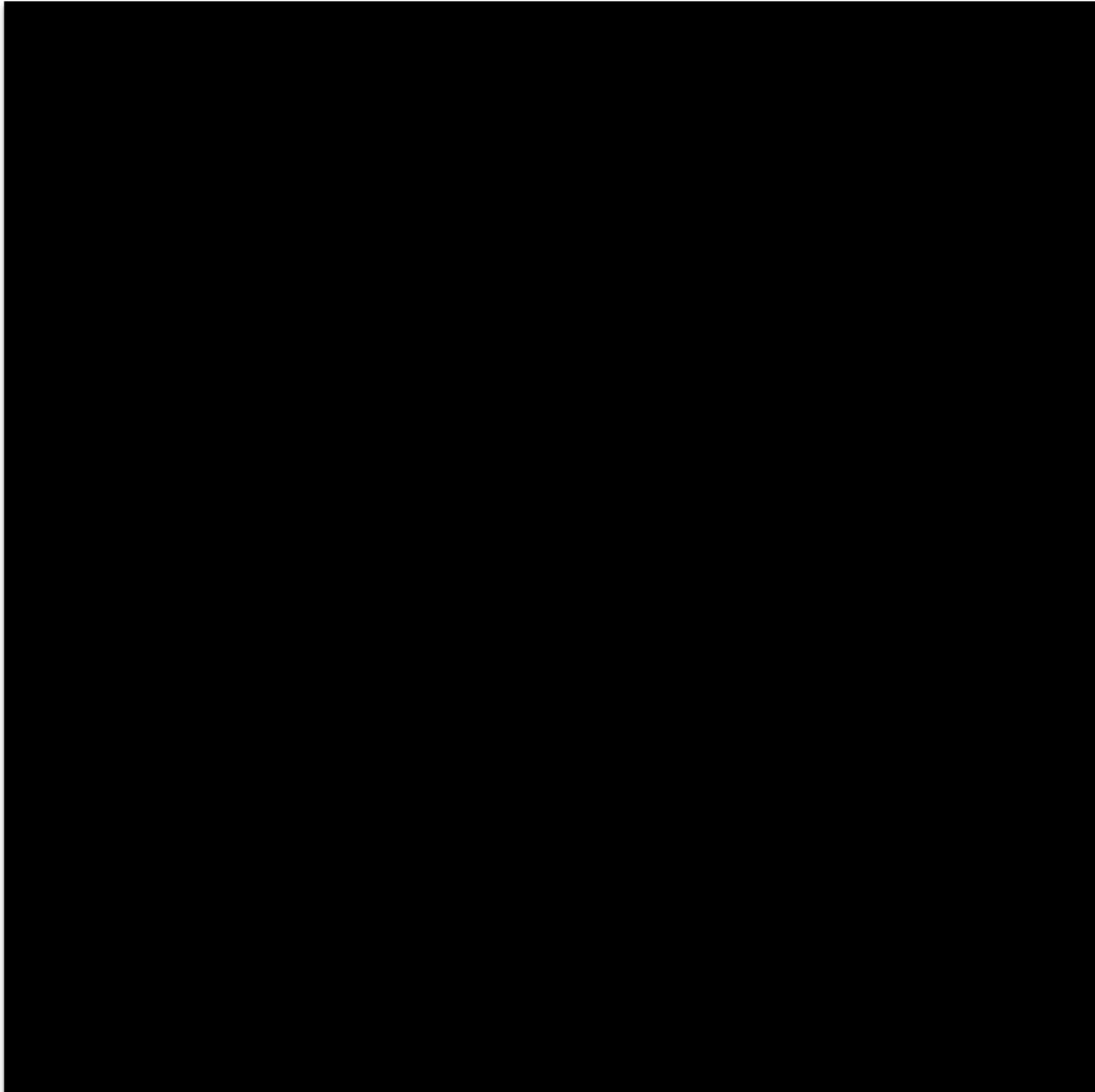
Below we demonstrate how we arrived at the costs provided in [Section 2](#) (South Davis County On-demand Pilot TaaS) and [Section 3](#) (Tooele County On-demand Pilot SaaS) using the general cost formulas provided in [Section 1](#).

Pilot	Total First Year Pilot Cost	Display Calculations Using Cost Model Formula
1. South Davis County (TaaS)		
2. Tooele County (SaaS)		

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## 4. Innovative Approach to Financial Partnerships

We are pleased to propose several revenue-generating measures to help UTA offset the cost of its services, including an option for Via to provide a further discount while retaining farebox revenue, thereby sharing the risk for the success of the service (as measured by ridership and vehicle utilization) with UTA. We also provide an option, which we have deployed with other Via partners across the globe, to develop an in-app and in-vehicle advertising program for the service.



## 5. Summary

Below, we provide a summary overview of each of the three scenarios described in this proposal:

	Year 1	Year 2	Year 3	Year 4	Year 5	TOTAL (Years 1-5)
<b>SaaS</b> (based on medium demand Tooele County scenario)	\$51,000	\$36,000	\$36,000	\$36,000	\$36,000	<b>\$195,000</b>
<b>TaaS</b> (based on low demand South Davis County scenario)	\$1.18m	\$1.20m	\$1.22m	\$1.23m	\$1.25m	<b>\$6,080,000</b>
<b>MaaS</b> (based on integration with Go Ride)	\$10,000	\$0	\$0	\$0	\$0	<b>\$10,000</b>
<b>Annual Total</b>	<b>\$1,241,000</b>	<b>\$1,236,000</b>	<b>\$1,256,000</b>	<b>\$1,266,000</b>	<b>\$1,286,000</b>	<b>\$6,285,000</b>

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**EXHIBIT C– REQUIRED FEDERAL CLAUSES**

**ACCESS REQUIREMENTS FOR PERSONS WITH DISABILITIES**

Contractor shall comply with 49 USC 5301(d), stating federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC 794, which prohibits discrimination on the basis of disability; the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities; and the Architectural Barriers Act of 1968, as amended, 42 USC §4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities.

**ACCESS TO RECORDS AND REPORTS**

Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the Contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

Contractor agrees to comply with the record retention requirements in accordance with 2 CFR §200.333. Contractor shall maintain all books, records, accounts and reports required under the Contract for a period equal to the longer of: (i) three (3) years; or (ii) such longer period as may be specified in the Contract (except in the event of litigation or settlement of claims arising from the performance of the Contract, in which case records shall be maintained until the full and final disposition of all such claims or litigation (including appeals related thereto)).

Contractor agrees to provide sufficient access to United States Department of Transportation, Federal Transit Administration (FTA) and its contractors to inspect and audit records and information related to performance of the Contract as reasonably may be required.

Contractor agrees to permit FTA and its contractors access to the sites of performance under the Contract as reasonably may be required.

**BUY AMERICA CERTIFICATION [Applicable Only to Contracts valued at more than \$150,000]**

Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, as amended by MAP-21 stating that federal funds may not be obligated unless steel, iron and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7. Separate requirements for rolling stock are set out at 49 USC §5323(j)(2)(C) and 49 CFR §661.11. Rolling stock must be assembled in the United States and have the applicable percentage of domestic content required by 49 USC 5323(j) and 49 CFR 661. Contractor shall be responsible for ensuring that lower tier contractors and subcontractors are in compliance with these requirements. All respondents to the UTA

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solicitation for the Contract must include the appropriate Buy America certification with their responses and any response that is not accompanied by a completed Buy America Certification will be rejected as nonresponsive.

**CARGO PREFERENCE** [Applicable Only to Contracts Involving Equipment, Materials or Commodities Transported by Ocean Vessels]

Contractor shall: (i) use privately owned US-Flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners and tankers) involved, whenever shipping any equipment, materials or commodities pursuant to the Contract, to the extent such vessels are available at fair and reasonable rates for US flag commercial vessels; (ii) furnish, within 20 working days following the loading date of shipments originating within the US or within 30 working days following the loading date of shipments originating outside the US, a legible copy of a rated, "on-board" commercial bill-of-lading in English for each shipment of cargo described herein to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to UTA (through Contractor in the case of a subcontractor's bill-of-lading.); and (iii) include these requirements in all subcontracts issued pursuant to the Contract when the subcontract involves the transport of equipment, material or commodities by ocean vessel.

**CHANGES TO FEDERAL REQUIREMENTS**

Contractor shall comply with all applicable regulations, policies, procedures and directives of the FTA. Applicable regulations, policies, procedures and directives include, without limitation, those listed directly or by reference in the Master Agreement between UTA and FTA, as they may be amended or promulgated from time to time during the term of the Contract. Contractor's failure to comply shall constitute a material breach of the Contract.

**CIVIL RIGHTS REQUIREMENTS**

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or

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recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary, to identify the affected parties.

**CLEAN AIR** [Applicable Only to Contracts valued at more than \$150,000]

Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor agrees that it will not use any violating facilities. Contractor shall report each violation to UTA and understands and agrees that UTA will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

**CLEAN WATER** [Applicable Only to Contracts valued at more than \$150,000]

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to UTA and understands and agrees that UTA will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

**CONFORMANCE WITH NATIONAL ITS ARCHITECTURE** [Applicable Only to Contracts and Solicitations for Intelligent Transportation Systems]

To the extent applicable, Contractor agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and comply with FTA Notice, "FTA National ITS Architecture Policy on Transit Projects" 66 Fed. Reg. 1455 et seq., January 8, 2001, and any subsequent further implementing directives, except to the extent FTA determines otherwise in writing.

**DEBARMENT AND SUSPENSION** [Applicable Only to Contracts valued at more than \$25,000]

Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR Part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government wide Debarment and Suspension (Non-procurement)," 2 CFR Part

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180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the Contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the Contract amount. As such, Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any federal department or agency to be: (i) debarred from participation in any federally assisted award; (ii) suspended from participation in any federally assisted award; (iii) proposed for debarment from participation in any federally assisted award; (iv) declared ineligible to participate in any federally assisted award; (iv) voluntarily excluded from participation in any federally assisted award; and/or (v) disqualified from participation in any federally assisted award. By submitting a response to UTA's solicitation for the Contract, Contractor has certified that the foregoing items (i) through (v) are true. The certification in this clause is a material representation of fact relied upon by UTA. If it is later determined by UTA that Contractor knowingly rendered an erroneous certification, in addition to other remedies available that may be available to UTA, the federal government may pursue available remedies, including but not limited to suspension and/or debarment. Contractor agrees to comply with the requirements of 2 CFR Part 180, subpart C, as supplemented by 2 CFR Part 1200, during the Contract term. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

### **DISADVANTAGED BUSINESS ENTERPRISES**

(1) **FTA Policy** – The Contract is subject to 49 CFR Part 26. Therefore, Contractor must satisfy the requirements for DBE participation as set forth herein. These requirements are in addition to all other equal opportunity employment requirements of the Contract. UTA shall make all determinations with regard to whether or not Contractor is in compliance with the requirements stated herein.

(2) **Nondiscrimination** – Neither Contractor nor any subcontractor shall discriminate on the basis of race, color, national origin, or sex in the performance of the Contract. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of FTA-assisted contracts. Failure by Contractor to carry out these requirements is a material breach of the Contract, which may result in the termination of the Contract or such other remedy as UTA deems appropriate, which may include, but is not limited to: (i) withholding monthly progress payments in whole or in part; (ii) assessing any liquidated damages as may be provided in the Contract; (iii) requiring Contractor to stand-down with respect to the Work (without an increase in the Contract cost or an adjustment to the Contract schedule) until Contractor achieves compliance with respect to these requirements and/or (iv) disqualifying Contractor from future participation in UTA contracts.

(3) **DBE Goals and Good Faith Efforts** – The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is \_\_\_\_\_. If a separate contract goal for DBE participation has been established for the Contract, it is listed in the solicitation documents that have been incorporated into the Contract. Contractor is required to document sufficient DBE participation to meet the applicable goal. If Contractor is unable to meet the applicable goal, Contractor must alternatively document adequate good faith efforts to meet the DBE Goal. The types of actions that the UTA will consider as part of the Bidder/Offeror's good faith efforts include, but are not limited to, the following: (i) **Contractor's attendance at a pre-bid meeting (as applicable) scheduled by UTA to inform DBEs of subcontracting opportunities;** (ii) advertisement of subcontracting opportunities in general circulation media, trade association publications, and minority-focus media; (iii) written notification to capable DBEs that their interest in the Contract is solicited; (iv) documentation of efforts to negotiate with DBEs for specific subcontracts including the names, addresses, and telephone numbers of DBEs that were contacted and the date(s) of contact, a description of the information provided to DBEs regarding the work to be performed and a statement explaining why additional agreements with DBEs were not reached; (v) for each DBE Contractor contacted but rejected as unqualified, the reason for Contractor's conclusion; (vi) documentation of efforts made to assist the DBEs contacted that needed assistance in obtaining

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required bonding or insurance; (vii) documentation of efforts to utilize the services of small business organizations, community and contractor groups to locate qualified DBEs; (viii) documentation of Contractor's efforts to break out Contract work items into economically feasible units in fields where there are available DBE firms to perform the work; (ix) evidence that adequate information was provided to interested DBEs about the plans, specifications and requirements of the Contract, and that such information was communicated in a timely manner; and (x) documentation of any efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services.

(4) **Race-Neutral Procurements** – If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

(5) **Verification of Compliance** – Contractor shall assist UTA in verifying compliance with the DBE requirements of the Contract by submitting status reports itemizing payments to all DBEs with each monthly request for payment. Upon Contract completion, Contractor shall submit a summary of payments, by subcontract, made to all subcontractors to UTA's Civil Rights Compliance Officer.

(6) **Prompt Payment of Subcontractors** – Contractor is required to pay its subcontractors performing work related to the Contract for satisfactory performance of that work no later than 30 days after Contractor's receipt of payment for that work from UTA. In addition, Contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to the Contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by UTA and Contractor's receipt of the partial retainage payment related to the subcontractor's work. The failure to make prompt payment to subcontractors as required above shall constitute a material breach of the Contract and shall give rise to remedies including, without limitation, the Authority's right to withhold amounts payable to the Contract and make direct payments (including interest) to subcontractors.

(7) **Termination of a DBE Subcontractor** – Contractor shall not terminate any DBE subcontractor identified in the Contract (or Contractor's response to the Contract solicitation) without UTA's prior written consent. UTA may provide such written consent only if Contractor has good cause to terminate the DBE subcontractor. Before transmitting a request to terminate, Contractor shall give notice in writing to the DBE subcontractor of its intent to terminate and the basis for the termination. Contractor shall give the DBE subcontractor five days to respond to the notice and advise of the reasons why the DBE subcontractor believes there is not good cause to terminate the subcontract. When a subcontract with the DBE subcontractor is terminated or when a DBE subcontractor fails to complete its work on the Contract for any reason, Contractor shall make good faith efforts to find another DBE subcontractor to substitute for the original DBE subcontractor and immediately notify UTA in writing of its efforts to replace the original DBE subcontractor. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Contract as the DBE subcontractor whose subcontract was terminated, to the extent needed to meet the applicable goal.

**ENERGY CONSERVATION**

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

**FALSE STATEMENTS OR CLAIMS CIVIL AND CRIMINAL FRAUD**

Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions

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pertaining to this project. Upon execution of the Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the Contract or FTA assisted project for which the Contract work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on Contractor to the extent the US Government deems appropriate.

Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the federal government under the Contract, the federal government reserves the right to impose the penalties of 18 USC §1001 and 49 USC §5323(1) on Contractor, to the extent the federal government deems appropriate.

Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

**FLY AMERICA (U.S.) REQUIREMENTS** [Applicable Only to Contracts Involving Transportation of Persons or Property, by Air between the U.S. and/or Places outside the U.S]

Contractor shall comply with 49 USC 40118 (the “Fly America” Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and sub-recipients of federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

**INCORPORATION OF FTA TERMS**

The Contract includes certain Standard Terms and Conditions required by the FTA, whether or not expressly stated in the Contract. All FTA-required contractual provisions, as stated in 2 CFR Part 200 or FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the Contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause UTA to be in violation of FTA terms and conditions.

**LOBBYING** [Applicable Only to Contracts valued at more than \$150,000]

Byrd Anti-Lobbying Amendment, 31 USC 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 USC §1601, et seq.] – Contractors who apply or bid for an award of \$150,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 USC 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-federal funds with respect to that federal contract, grant or award covered by 31 USC 1352. Such disclosures are forwarded from tier to tier up to UTA.

***Contractor makes a claim of confidentiality under Utah Code Annotated 63G-2-309. Contract and Exhibits are claimed to be Protected Records under Utah Code Annotated 63G-2-305 subsections (1) and (2).***

**NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES**

UTA and Contractor acknowledge and agree that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the federal government, the federal government is not a party to the Contract and shall not be subject to any obligations or liabilities to UTA, Contractor or any other party (whether or not a party to the Contract) pertaining to any matter resulting from the Contract. Contractor agrees to include the above clause in each subcontract financed in whole or in part with federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**RECYCLED PRODUCTS**

Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 USC §6962, and U.S. Environmental Protection Agency (U.S. EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 CFR Part 247.

**RESOLUTION OF DISPUTES, BREACHES AND OTHER LITIGATION**

UTA and Contractor intend to resolve all disputes under the Contract to the best of their abilities in an informal manner. To accomplish this end, the parties will attempt to resolve disputes through communications between their respective staffs, and, if resolution is not reached at that level, a procedure for review and action on such disputes by appropriate management level officials within UTA and Contractor’s organization.

Unless otherwise directed by UTA, Contractor shall continue performance under the Contract while matters in dispute are being resolved.

Unless the Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between UTA and Contractor arising out of or relating to the Contract or its breach will be decided by alternative dispute resolution if the parties mutually agree, or in a court of competent jurisdiction within the State of Utah.

Duties and obligations imposed by the Contract and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by UTA or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

**TERMINATION**

Upon written notice to Contractor, UTA may, for its convenience and without cause, elect to terminate the Contract. If UTA terminates the Contract for its convenience, Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination., but excluding consequential damages (which includes, but is not limited to, lost profits and/or opportunity costs associated with the terminated portion of the work).

If Contractor fails to deliver supplies or to perform the services within the time specified in the Contract or any extension, or if Contractor fails to comply with any other provisions of the Contract, UTA may terminate the Contract for default. UTA shall terminate by delivering to Contractor a notice of termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services

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performed in accordance with the manner or performance set forth in the Contract, net of any damages incurred by UTA as the result of the default including, without limitation: (i) any “costs to cover” incurred by UTA with respect to the supplies that were not delivered or the services that were not perform; (ii) any self-help remedies afforded to UTA by the Contract; and (iii) any other remedies set forth in the contract or allowed by law.

***Contractor makes a claim of confidentiality under Utah Code Annotated 63G-2-309. Contract and Exhibits are claimed to be Protected Records under Utah Code Annotated 63G-2-305 subsections (1) and (2).***