



**WEST HAVEN CITY
COUNCIL AGENDA**

WEDNESDAY, AUGUST 30, 2023 4:00 PM
City Council Chambers
4150 South 3900 West, West Haven, UT 84401

NOTICE IS HEREBY GIVEN THAT ON **August 30, 2023** THE COUNCIL OF WEST HAVEN CITY WILL HOLD THE FOLLOWING PUBLIC MEETINGS: **4:00 PM: SPECIAL WEDNESDAY CITY COUNCIL MEETING**. JOIN US DIGITALLY FOR THE COUNCIL MEETING AT [HTTPS://US06WEB.ZOOM.US/J/81581435918](https://us06web.zoom.us/j/81581435918). WATCH LIVE AT [HTTPS://WWW.YOUTUBE.COM/CHANNEL/UCEEQNQBTFZJWGTGPHMCNCBA](https://www.youtube.com/channel/UCEEQNQBTFZJWGTGPHMCNCBA).

1. MEETING CALLED TO ORDER-MAYOR VANDERWOOD
2. OPENING CEREMONIES
 - A. PLEDGE OF ALLEGIANCE-COUNCILMEMBER DIXON
 - B. PRAYER/MOMENT OF SILENCE-COUNCILMEMBER CALL

*****AGENDA ACTION ITEMS*****

3. EXECUTIVE SESSION-THE COUNCIL WILL ENTER INTO A CLOSED MEETING FOR THE PURPOSE OF A STRATEGY SESSION TO DISCUSS THE CHARACTER AND PROFESSIONAL COMPETENCE OF AN INDIVIDUAL; TO BE HELD IN ACCORDANCE WITH THE PROVISIONS OF UTAH CODE 52-4-205
4. ACTION ON RESOLUTION 34-2023-CABLE AND FACILITIES EASEMENT BETWEEN WEST HAVEN CITY AND UTAH INFRASTRUCTURE AGENCY
5. DISCUSSION-PERSONNEL POLICY
6. ADJOURNMENT

Emily Green

Emily Green, City Recorder

In compliance with the Americans with Disabilities Act, persons needing special accommodations, including auxiliary communicative aids and services, for this meeting should notify the city recorder at 731-4519 or by email: emilyg@westhavencity.com at least 48 hours in advance of the meeting.

CERTIFICATE OF POSTING

The undersigned, duly appointed city recorder, does hereby certify that the above notice and agenda has been posted in the West Haven City Recorder's office; at the West Haven City Complex on the Notice Board and at westhavencity.com; emailed to the Standard-Examiner with a request that it be posted in their Wednesday night meeting section, mailed and emailed to the West Haven City Mayor and each West Haven City Council Member who has email capacity and to the city attorney

RESOLUTION OF WEST HAVEN CITY AUTHORIZING ADOPTION OF THE CABLE AND FACILITIES EASEMENT BETWEEN WEST HAVEN CITY AND UTAH INFRASTRUCTURE AGENCY; AUTHORIZING THE CITY MAYOR TO SIGN THIS RESOLUTION; AUTHORIZING THE INTERIM CITY MANAGER TO SIGN THE EASEMENT ON BEHALF OF THE CITY; AND, PROVIDING FOR AN EFFECTIVE DATE.

SECTION I – RECITALS:

WHEREAS, the City Council of West Haven City (herein "City") is a municipal corporation duly organized and existing under the laws of the State of Utah; and,

WHEREAS, in conformance with the provisions of UCA § 10-3-717, the governing body of the City may exercise all administrative powers by resolution including, but not limited to entering into contracts and agreements regarding protecting the health, safety, and welfare of the public; and,

WHEREAS, the City entered into a Fiber Communications Service and Acquisition Contract ("Contract") in order to ensure that fiber connection services are available and offered to all citizens of the City; and,

WHEREAS, Utah Infrastructure Agency ("UIA") is a separate legal entity, body politic and corporate, and political subdivision of the State of Utah, and had the ability to offer connection services to the City; and

WHEREAS, part of the Contract is that the City and UIA will enter into Cable and Facilities Easements so that UIA can install certain infrastructure in order to fulfill the contract of ensuring fiber connection services within the City; and

WHEREAS, after review of all of the information and the Contract and the Cable and Facilities Easement, the City feels that the Cable and Facilities Easement will best serve the citizens of the City and now desires to adopt the easement that is attached as Attachment A by accepting the terms thereof; and,

WHEREAS, the City finds that the public convenience and necessity requires the actions herein contemplated,

NOW, THEREFORE, BE IT RESOLVED by the City of West Haven as follows:

SECTION II. CABLE AND FACILITIES EASEMENTS:

1. That the Cable and Facilities Easements between West Haven City and UIA, a copy of which is attached as Attachment A to this Resolution, is hereby adopted by the City Council.

2. That the City Manager is authorized to sign any and all documents necessary to affect that easement, including signing the easement itself.
3. That the Mayor is authorized to sign this Resolution adopting the Cable and Facilities Easement.

SECTION III. PRIOR ORDINANCES AND RESOLUTIONS:

The body and substance of any and all prior Resolutions, together with their specific provisions, where not otherwise in conflict with this Resolution, are hereby reaffirmed and readopted.

SECTION IV. REPEALER OF CONFLICTING ENACTMENTS:

All orders, and Resolutions with respect to the changes herein enacted and adopted which have heretofore been adopted by the City, or parts thereof, which are in conflict with any of the provisions of this Resolution, are, to the extent of such conflict, hereby repealed, except that this repeal shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

SECTION V - SAVINGS CLAUSE:

If any provision of this Resolution shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable for any reason, such reason shall not have the effect of rendering any other provision or provisions hereof invalid, inoperative or unenforceable to any extent whatever, this Resolution and the provisions of this Resolution being deemed to be the separate independent and severable act of the City Council of West Haven City.

SECTION VI. DATE OF EFFECT

This Resolution shall be effective immediately upon its passage on the 30th day of August, 2023.

PASSED AND ADOPTED BY THE CITY COUNCIL OF WEST HAVEN CITY, STATE OF UTAH, on this 30th day of August, 2023.

WEST HAVEN CITY

Mayor Rob Vanderwood

ATTEST:

City Recorder

ATTACHMENT “A”

CABLE AND FACILITIES EASEMENT BETWEEN WEST HAVEN CITY AND UTAH
INFRASTRUCTURE AGENCY (“UIA”)

DRAFT

WHEN RECORDED MAIL TO:

Utah Telecommunication Open Infrastructure Agency
ATTN: General Counsel
5858 South 900 East
Murray, Utah 84121

WHV03 Additional, (Kenneth Baldwin Country Park, 2987 W 3300 S)

APN #08-030-0039

CABLE AND FACILITIES EASEMENT

West Haven City, a municipality organized under the laws of the State of Utah ("Grantor"), whose address is 4150 South 3900 West, West Haven UT 84401, hereby grants to the Utah Infrastructure Agency, an interlocal cooperative agency organized under the laws of the State of Utah ("Grantee"), for the annual sum of THREE HUNDRED DOLLARS AND NO CENTS (\$300.00), and other valuable consideration, a non-exclusive easement, together with the rights of ingress and egress on over and above the Grantor's property, subject to all matters of record (the "Easement") to, at Grantee's sole cost and expense, locate, survey, conduct environmental surveys for, excavate, construct, entrench, maintain, protect, inspect, operate, repair and replace (collectively referred to as Grantee's Necessary Actions") the cables and associated system facilities, hardware and equipment (collectively referred to as "Cables and Facilities"), graphically depicted on the drawing attached as **Exhibit "A"** and incorporated by reference, over, under and through land situated at approximately 2987 West 3300 South, West Haven City, Weber County, State of Utah, more particularly described as follows and referred to herein as the "Easement Property":

EASEMENT DESCRIPTION:

An Easement for the purpose of the installation and maintenance of Fiber Optic Cables and Equipment described as follows:

BEGINNING AT A POINT WHICH LIES S89°36'29"E 856.02 FEET ALONG THE SECTION LINE AND SOUTH 165.86 FEET FROM THE NORTH 1/4 CORNER OF SECTION 3, T5N, R2W, SLB&M; AND RUNNING THENCE N04°23'44"E 54.00 FEET TO THE SOUTHWEST CORNER OF AN EXISTING EASEMENT; THENCE S85°36'16"E 16.00 FEET TO THE SOUTHEAST CORNER OF AN EXISTING EASEMENT; THENCE ALONG THE EAST LINE OF EXISTING EASEMENT N04°23'44"E 38.67 FEET; THENCE S09°21'51"E 33.63 FEET; THENCE S04°23'44"W 60.00 FEET; THENCE N85°36'16"W 24.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.03 ACRES OF LAND.

In addition to any other limitations set forth herein, this Easement is granted subject to the following terms and conditions:

1. Grantor reserves its existing uses, together with any future uses, of the Easement Property which does not unreasonably interfere with Grantee's use of the Easement Property.

2. In its use and enjoyment of this Easement Grantee shall:

- (a) comply with all applicable local, state and federal laws, rules and regulation; and
- (b) act reasonably to minimize interference with the use and enjoyment of Grantor's property by Grantor, and its invitees, successor and assigns and any other easement or license holders.

3. The Easement granted herein is subject to the rights of Grantor and its invitees, successors and assigns to use the surface of the Easement Property, provided such use is reasonably compatible with the use of the Easement Property by Grantee for the purposes described herein. No buildings, structures, walls or other improvements which jeopardize the safety or functioning of the Grantee's Cables and Facilities, or which unreasonably impair Grantee's access to the Cables and Facilities shall be placed on the Easement Property. Notwithstanding the foregoing, Grantor and its successors and assigns shall have the right to develop the Easement Property with driveways, parking areas, landscaping areas, curbs, gutters, and paving as Grantor deems appropriate in its sole discretion; provided that Grantor first provides Grantee thirty (30) days written notice of its intent to install such developments.

4. Any and all rights granted herein are subject to the rights of existing utilities, rights-of-way, easements or other property interests in the Easement Property. Grantee shall be responsible, at Grantee's sole cost and expense, for obtaining consents and approvals, including those of the Grantor for relocating or modifying the alignments of existing utilities as of the date of this Easement, if any, in order to maintain reasonable clearances between such utilities and the Cables and Facilities.

5. Subject to the provisions of Paragraph 6, and in consultation with the Grantor, Grantee shall have the right to cut, damage or remove ground, trees, plants, landscaping and other improvements within the Easement Property to the extent reasonable and necessary, during construction, maintenance, repair or replacement of the Cables and Facilities.

6. Grantee shall restore the surface of Grantor's land to the reasonable satisfaction of Grantor in a timely manner, not to exceed ten (10) business days (or as soon as weather reasonably permits) following the completion of any of Grantee's Necessary Actions, including without limitation, construction, maintenance, repair or replacement of the Cables or Facilities, or of any other disturbance of Grantor's property.

7. Grantee shall not damage Grantor's existing facilities, whether underground or overground, and in the event of such damage shall repair or cause to be repaired such damage, at Grantee's sole cost and expense.

8. Grantee may at any time permanently abandon this Easement. Grantee's discontinued use of the Easement and/or the Cables and Facilities for a term of one (1) year shall be deemed a permanent abandonment without regard to Grantee's intent. Upon such abandonment action, Grantee shall remove improvements constructed thereon within sixty (60) calendar days of receipt of written request from Grantor following such abandonment and shall execute and record a reconveyance and release hereof within fifteen (15) business days of receipt of written request from Grantor following such abandonment, whereupon this Easement and all rights and privileges shall be fully cancelled and terminated. Grantee shall restore the surface of Grantor's land to the reasonable satisfaction of Grantor following the removal of the Cables and Facilities.

9. If at any time, Grantor determines, in its sole discretion, that Grantor's existing facilities subject to this Agreement require repair or replacement, Grantee will, at its sole expense, remove or modify any portion of the Cables and Facilities that Grantor, in its sole discretion, deems necessary to perform such repair or replacement no later than thirty (30) calendar days following receipt of written request from Grantor. If Grantee fails to respond to Grantor's request that any portion of the Cables and Facilities be removed or modified, Grantor may choose to remove or modify any portion of the Cables and Facilities and Grantee will be solely responsible for costs incurred by Grantor in performing any such repair or replacement related to removing or modifying the Cables and Facilities. Grantor will provide Grantee a written invoice detailing such costs incurred and Grantee shall pay the invoice, in full, within thirty (30) days of its receipt. Grantee will have no claim against Grantor for any claims, costs, or damages to the Cables and Facilities.

10. The Cables and Facilities permitted to be installed and maintained within the Easement Property are specifically described in Exhibit "A," as attached hereto. Such Cable and Facilities shall be limited to a concrete pad, generator, and telecommunications shelter, in the size, height, width, dimension and locations specifically set forth in Exhibit "A." The Cable and Facilities shall be installed strictly in accordance with the plans set forth in Exhibit "A," and shall be subject to all the terms and conditions of this Easement. Grantee shall not construct, erect or install any structures or other improvements within the Easement Property without the prior approval of Grantor and in accordance with West Haven City Ordinances, including, but not limited to site plan review procedures.

11. Grantee shall cause all of its activities hereunder to be performed in a safe manner and shall not cause to exist any dangerous condition within the Easement Property. Grantee shall, at Grantee's sole cost and expense, perform all maintenance of the Cables and Facilities within the Easement Property. Grantee shall perform such maintenance of the Cables and Facilities in compliance with all applicable zoning laws, regulations and ordinances. Grantee shall remove or paint over any graffiti on the Cables and Facilities

within the Easement Property within three (3) business days from written notice from the Grantor.

12. Any notice required or desired to be given hereunder shall be in writing and shall be delivered personally upon the party for whom it is intended or if mailed, by certified mail, return receipt requested, postage prepaid, and will be deemed served when received by such party at its address show below:

To Grantor: City of West Haven
4150 South 3900 West
West Haven, Utah 84401

To Grantee: Utah Infrastructure Agency
Attn: General Counsel
5858 South 900 East
Murray, Utah 84121

13. Grantor and Grantee agree that should either one default in any of the covenants and terms set forth herein, the defaulting party shall pay all costs and expenses, including reasonable attorneys' fees, which may arise or accrue from enforcing the terms of this Easement or in pursuing any remedy provided hereunder or by the statutes or other laws of the State of Utah.

14. The parties expressly acknowledge that the Easement Property is located within public property that may be utilized by the public for park or other purposes. Grantee agrees, that, at all times, this Easement shall be subject to any use of the public property by the Grantor and the public, subject to paragraph 3 above, and that Grantor shall not be liable to Grantee for any loss of use or damage to the Cables and Facilities resulting from such use unless caused by Grantor's breach of any obligation stated in this Easement, negligence, or willful misconduct.

15. If Grantee fails to make the annual Easement payment or is in default of any other provision of this Easement, Grantor may provide written notice to Grantee of such failure to pay or other default. Grantee shall have thirty (30) days from the date of written notice to cure the failure to pay or other default. If Grantee fails to cure the non-payment or default within thirty (30) days, this Easement shall be terminated and Grantee shall execute a record of reconveyance and release hereof within thirty (30) days of the termination date, whereupon this Easement and all rights and privileges other than the removal and indemnification provisions shall be fully cancelled and terminated.

16. Grantee may assign this Easement, or any of its rights under this instrument, in whole or in part, subject to Grantor's written permission; provided, however, that notwithstanding the forgoing provision, Grantee shall have no obligation to obtain Grantor's written permission to assign the Perpetual Easement for purposes of Grantee's financing.

17. This Easement may be amended only by written instrument executed by both the Grantor and Grantee.

18. Grantee shall indemnify and hold Grantor harmless from any claims, costs, damages and liabilities to the extent they arise out of Grantee's exercise of this Easement. Grantor shall have no duty to inspect the Easement Property to which this Easement applies and shall have no duty to warn any person of any latent or patent defect, condition or risk that may exist on or within the Easement Property or that might be incurred in the exercise of the rights granted herein. This provision does not waive any requirements or limitations of Utah law regarding governmental immunity.

19. All of the grants, covenants, terms provisions and conditions in this Perpetual Easement shall run with the land and shall be binding upon and inure to the benefit of the successors, assigns, heirs, executors and administrators of the parties.

20. Except as expressly set forth herein, this instrument, including any exhibits, constitutes the entire agreement of the parties and supersedes all prior understandings, representations or agreements of the parties regarding the subject matter in this document.

21. This Easement shall include the non-exclusive right of individuals or entities with which UIA or the Utah Telecommunication Open Infrastructure Agency ("UTOPIA") contracts to provide necessary services to its Cables and Facilities within the Easement Property to install, maintain and operate such necessary utility facilities ("Necessary Utility Facilities") over, under and through the Easement Property, provided, that such Necessary Utility Facilities comply with all the terms and conditions of this Easement, including all requirements and restrictions regarding Cables and Facilities within the Easement Property. All Necessary Utility Facilities shall be installed underground, unless otherwise agreed to in writing by Grantor.

(signature page to follow)

GRANTOR:

City of West Haven

Dated: _____

By: _____
Mayor

ATTEST:

APPROVED AS TO FORM:

City Recorder

City Attorney's Office

GRANTEE:

UTAH INFRASTRUCTURE
AGENCY

Dated: _____

Roger Timmerman, Executive Director

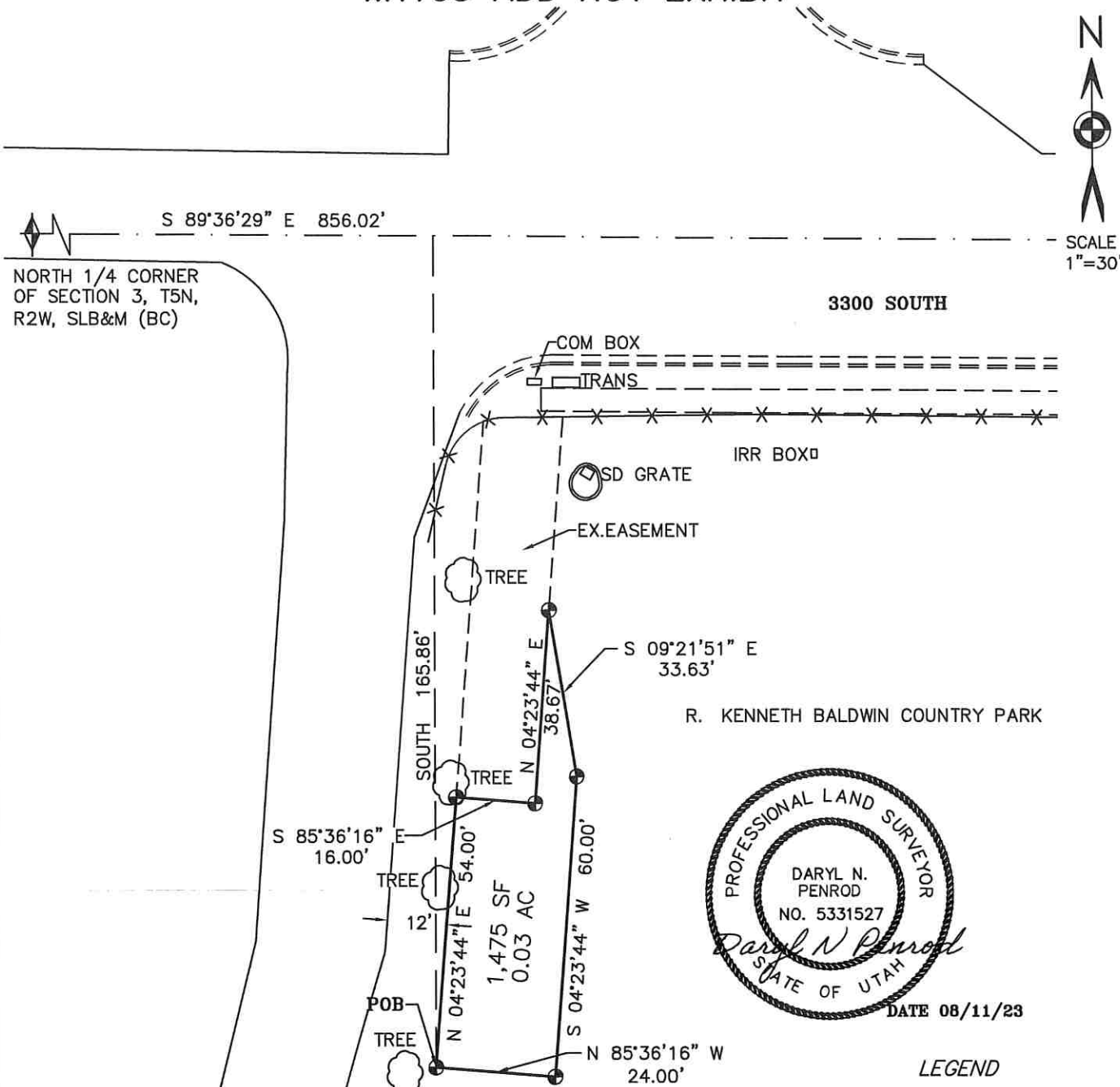
ATTEST:

APPROVED AS TO FORM:

Secretary

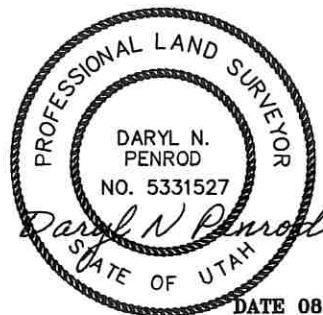
UIA General Counsel

WHV03 ADD HUT EXHIBIT



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BEGINNING AT A POINT WHICH LIES S89°36'29"E 856.02 FEET ALONG THE SECTION LINE AND SOUTH 165.86 FEET FROM THE NORTH 1/4 CORNER OF SECTION 3, T5N, R2W, SLB&M; AND RUNNING THENCE N04°23'44"E 54.00 FEET TO THE SOUTHWEST CORNER OF AN EXISTING EASEMENT; THENCE S85°36'16"E 16.00 FEET TO THE SOUTHEAST CORNER OF AN EXISTING EASEMENT; THENCE ALONG THE EAST LINE OF EXISTING EASEMENT N04°23'44"E 38.67 FEET; THENCE S09°21'51"E 33.63 FEET; THENCE S04°23'44"W 60.00 FEET; THENCE N85°36'16"W 24.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.03 ACRES OF LAND.



LEGEND

- = SET 5/8" REBAR W/CAP
- = SECTION CORNER
- = SECTION LINE
- = EXISTING FENCE
- = DESCRIBED EASEMENT

PREPARED BY:

**LUDLOW ENGINEERING &
LAND SURVEYING**

645 NORTH MAIN STREET
NEPHI, UTAH, 84648
PHONE (435) 623-0897
FILE NUMBER LE 4195



UTOPIA FIBER HUT SITE



WHV03 ADD - HUT

KENNETH BALDWIN COUNTRY PARK
WEST HAVEN, UTAH

SHEET 1 OF 1

DATE 08/02/23

JOB NO. LE4195

LOCATION

PART OF
SECTION 3,
T5N, R2W,
SLB&M