

WHEN RECORDED MAIL TO:

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

PA009

APN #08:115:0002

CABLE AND FACILITIES EASEMENT

Payson City, a municipality organized under the laws of the State of Utah ("Grantor"), 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 South Canyon Road, Payson City, Utah 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 IS S 89°24'36" E 258.95 FEET ALONG THE BLOCK LINE AND NORTH 89.33 FEET FROM THE SOUTHWEST CORNER OF BLOCK 5, PLAT "P", PAYSON CITY SURVEY SAID POINT IS ALSO S 00°22'07" E 878.17 FEET AND EAST 104.90 FEET FROM THE WEST 1/4 CORNER OF SECTION 16, TOWNSHIP 9 SOUTH, RANGE 2 EAST, S.L.B.&M., THENCE N 01°19'53" E 28.00 FEET, THENCE S 88°38'51" E 48.05 FEET TO THE EDGE OF EXISTING ASPHALT, THENCE S 01°17'21" W 28.00 FEET ALONG SAID EXISTING ASPHALT, THENCE N 88°38'51" W 48.07 FEET TO THE POINT OF BEGINNING. CONTAINING 0.03 ACRES 1345.7 SQ. FT.

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 do 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 such abandonment and shall execute and record a reconveyance and release hereof within fifteen (15) business days of such abandonment, whereupon this Easement and all rights and privileges shall be fully cancelled and terminated.

9. 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 Payson City Ordinances, including, but not limited to site plan review procedures.

10. 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.

11. 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 Payson
439 West Utah Avenue
Payson, Utah 84651

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

12. 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.

13. 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 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 the negligence or willful misconduct of Grantor.

14. 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.

15. 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.

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

17. 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.

18. 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.

19. 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.

20. 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 Payson

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