

WEST HAVEN CITY
COUNCIL AGENDA

AMENDED

December 21, 2022 6:00 P.M.
City Council Chambers
4150 South 3900 West, West Haven, UT 84401

NOTICE IS HEREBY GIVEN THAT ON **December 21, 2022** THE COUNCIL OF WEST HAVEN CITY WILL HOLD THE FOLLOWING PUBLIC MEETINGS: **5:00 PM:** COUNCIL WORKSHOP **6:00 PM:** REGULAR WEDNESDAY CITY COUNCIL MEETING. JOIN US DIGITALLY FOR THE WORK SESSION AND COUNCIL MEETING AT [HTTPS://US06WEB.ZOOM.US/J/81581435918](https://us06web.zoom.us/j/81581435918). WATCH LIVE AT [HTTPS://WWW.YOUTUBE.COM/CHANNEL/UCeeQNqBTFZJWtGOPHMCNCBA](https://www.youtube.com/channel/UCeeQNqBTFZJWtGOPHMCNCBA).

1. MEETING CALLED TO ORDER: Mayor Vanderwood
2. OPENING CEREMONIES
 - A. PLEDGE OF ALLEGIANCE Councilmember Call
 - B. PRAYER/MOMENT OF SILENCE Councilmember Dixon
3. PUBLIC PRESENTATION: Resident(s) attending this meeting will be allotted 2 minutes to express a concern or ask a Question about any issue that **IS NOT ON THE AGENDA** No action can or will be taken on any issue(s) presented.
4. UPCOMING EVENTS

Senior Lunch Bunch-December 28, 2022-11:30 AM
Howdy Hall with Mayor and Friends-December 28, 2022-5:30-6:30 PM
5. COUNCIL UPDATES
6. CITY MANAGER UPDATES

AGENDA ACTION ITEMS

7. ACTION ON CONSENT AGENDA

	MEETING HELD	December 7, 2022
A. CITY COUNCIL MINUTES		
B. WEBER COUNTY TRANSFER STATION	\$22,790.38	Inv.#022-01421484-022-01430519
C. WASTE MANAGEMENT	\$30,247.65	Inv.#2094272-2682-1
D. WEBER COUNTY ANIMAL	\$25,732.00	Inv.#41504-41505
E. GARDNER ENGINEERING	\$38,246.50	Inv.#1022170-1022190
F. BONNEVILLE ACQUISITIONS	\$48,800.00	Inv.#1066-a
8. DISCUSSION-CONSIDERATION FOR COMMITTEE ORDINANCE
9. DISCUSSION-CONSIDERATION FOR PROCUREMENT POLICY
10. ACTION ON RESOLUTION 37-2022-CABLE AND FACILITIES EASEMENTS BETWEEN WEST HAVEN CITY AND UTAH INFRASTRUCTURE AGENCY
11. ADJOURNMENT

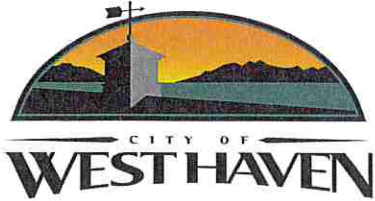
Emily Green

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



**WEST HAVEN CITY
PRE-COUNCIL WORKSHOP AGENDA
HELD PRIOR TO CITY COUNCIL MEETING
WEDNESDAY DECEMBER 21, 2022**

@

5:00 PM – In City Council Chambers

*NO ACTION CAN OR WILL BE TAKEN ON ANY CITY COUNCIL MEETING AGENDA ITEMS DISCUSSED DURING
PRE-COUNCIL WORKSHOP - DISCUSSION OF SUCH ITEMS IS FOR CLARIFICATION OF AGENDA ITEMS.*

MEETING TO ORDER:

MAYOR VANDERWOOD

REPORTS AND DISCUSSION AS FOLLOWS:

1. Discussion-Social Media Policy For Employee Handbook
2. Discussion-Code Consideration-Duties of the Mayor and City Council

STAFF REPORT

TO: Mayor, City Council, and City Manager
FROM: Amy Hugie, City Attorney
DATE: Nov. 10, 2022
SUBJECT: Amendment of Chapter 30 – Mayor and City Council



The following staff report discusses the need for an amendment to Chapter 30 – Mayor and City Council for clarification purposes and also to follow those recommendations made by American Legal Publishing.

Background

The City has just undergone a recodification through American Legal Publishing. During that process, American Legal Publishing provided a legal review to the City regarding all of the ordinances. American Legal observed (page 5 of Legal Report) that Title III – Administration appeared “to be lacking desirable provisions regarding the mayor and city council... although Chapter 31 generally provides for your City Manager and your Recorder and Treasurer.” American Legal further stated, “We suggest that this may be a subject of review by your City Attorney for future legislation beyond the scope of this codification.” There have also been some issues regarding the Mayor’s duties versus the City Manager’s duties versus City Council’s duties. Clarification at this time regarding all three entities roles and duties appeared to be prudent.

Analysis

The analysis and proposed clarification of the Mayor, City Council, and City Manager roles and duties came from a number of different sources. These were: Utah State Code §10-3b-301; §10-3b-302; §10-3b-303; §10-3b-104; Chapter 30 and 31 of the West Haven City Ordinances; a number of cities with a six member council and a city manager; and research from the Utah League of Cities and Towns website.

First, in 2020, the City Council engaged in discussion and creation of the City Manager position. The vote of the City Council and the Mayor to create the office of the City Manager was unanimous. That ordinance (which is now Chapter 31 and §31.21 of the West Haven City Ordinances) specifically outlines the role and duties of the City Manager. By agreeing to create the office of City Manager, the ordinance specifically restricted some of the Mayor’s powers, duties, and functions which is one of the reasons that the Mayor was allowed to vote on the ordinance. (See Utah State Code §10-3b-302) There are a number of different roles and duties assigned to the City Manager that were the once the Mayor’s under the Utah State Code.

Second, the proposed clarification to the West Haven ordinances regarding the Mayor’s role and duties came from comparing the City Manager ordinance to the various Utah State Code Sections addressing the Mayor’s roles and duties. A list was made of all of the Mayor’s powers (without a City Manager involved) from the Utah State Code and also compared to other cities with the six council form

of government to make sure that a comprehensive list was created. Then, this list was compared to the West Haven City ordinances outlining the City Manager's powers and all specifically outlined powers that were in the City Manager's list were removed from the Mayor's list. The Mayor is the Chief Executive of the City. However, this mainly encompasses ceremonial type functions because all of the day-to-day administrative functions have been given by ordinance to the City Manager. The City Manager is the Chief Administrative Officer of the City.

Third, the proposed clarification to the West Haven ordinances regarding the City Council's role and duties came from comparing the City Manager ordinance to the various Utah State Code Sections addressing the City Council's roles and duties. A list was made of all of the City Council's powers (without a City Manager involved) from the Utah State Code and also compared to other cities with the six council form of government to make sure that a comprehensive list was created. Then, this list was compared to the City Manager's and the Mayor's list.

WEST HAVEN CITY MANAGER

§ 31.20 SCOPE.

(A) In accordance with the provisions of UCA §§ 10-3b-303 et seq., the office of City Manager has been created and established, and shall continue in force and effect as an appointed office of the City.

(B) The City Council shall appoint a qualified person to act as City Manager. Pursuant to UCA § 10-3b-302, the Mayor shall have the right to vote in the appointment and termination of the City Manager.

(C) The City Manager shall, at all times, be under the control and supervision of the City Council, and shall administer the day-to-day operations of the City and its services according to the policies and programs established by the City Council.

(D) The City Attorney, under the direction of the City Council, will prepare an employment contract for the City Manager. The Mayor is authorized to execute the agreement on behalf of the City.

(Prior Code, § 2.02.010) (Ord. 18-2020, passed 5-20-2020)

§ 31.21 DUTIES.

(A) The City Manager shall be the Chief Administrative Officer of the City to whom all employees shall report.

(B) The City Manager shall be responsible to the City Council for the proper administration of all administrative affairs of the City. The City Manager shall have the following powers and duties in addition to those otherwise specifically set forth in this section or by law.

(1) City administration. The City Manager shall plan, direct, and supervise the administration of all departments, offices, and agencies of the City, and execute the laws and ordinances of the City, and shall:

(a) Notify the Mayor and City Council of any emergency existing in any department under the City Manager's supervision;

(b) Is authorized to execute routine service agreements contemplated in the daily operation of the City and included in the City's budget;

(c) Examine and inspect the books, records, and official papers of any office, department, agency, board, or commission of the City and make investigations, and require reports from, all personnel;

(d) May reorganize, consolidate, or combine offices or positions. The City Manager may be the head of one or more departments;

(e) Faithfully execute and enforce all applicable laws, ordinances, rules, and regulations, and see that all franchises, leases, permits, contracts, licenses, and privileges granted by the municipality are observed; and

- (f) Designate an acting City Manager to serve in his or her absence, or temporary incapacity, to exercise the powers and duties of the position.
- (2) Personnel Director. The City Manager shall be the Personnel Director, and as such shall be responsible for implementing and enforcing the personnel policies and procedures of the City, and providing recommendations to the City Council regarding the compensation plan for employees.
 - (3) Inventory property. The City Manager shall keep, or cause to be kept, a current inventory showing all real and personal property of the City and its location. The City Manager shall be responsible for the care and custody of all such property, including equipment, buildings, parks, and all other City property which is not by law assigned to some other officer or body for care and control.
 - (4) Purchasing and claims. The City Manager shall act as purchasing agent for the City, and as such, shall implement and enforce all provisions of the ordinances and policies of the City relating to purchasing.
 - (5) Council meetings. The City Manager shall attend all meetings of the City Council and may recommend to the City Council adoption of such measures as the City Manager may deem necessary or expedient.
 - (6) Budget Officer. The City Manager shall act as the Budget Officer for the City and shall perform, or cause to be performed, all of the duties of such office as set forth in the State Uniform Fiscal Procedures Act for Utah Cities, as set forth in UCA §§ 10-6-101 et seq. The City Manager shall also ensure that all executive procedures and activities of the City are in compliance with such Act.
 - (7) Review contracts. The City Manager shall review and make recommendations to the City Council concerning all proposed contracts to which the City may be a party, and shall see that the terms of any contract to which the City is a party are fully performed by all parties thereto.
 - (8) Propose plans and programs. The City Manager shall propose plans and programs concerning the development, operation, and needs of the City and submit such plans to the City Council to be approved and developed as policy.
 - (9) Implement policy. The City Manager shall implement all policy changes and directives of the Mayor and the City Council through regularly-scheduled staff meetings.
 - (10) Management controls. The City Manager shall set performance standards and exercise managerial control to ensure that the City government is functioning in the most efficient and effective manner.

- (11) Organization. The City Manager shall recommend the creation and organization of all necessary departments, divisions, bureaus, and offices necessary for the government of the City to the City Council for its approval prior to implementation. Recommendations for offices and organizations include, but are not limited to: Public Works Director, Community Development Director, Parks and Recreation Director, Finance Director, Administrative Services Director, Chief of Police, and Fire Chief.
- (12) Records. The City Manager shall oversee the access and retention of the books, records, and official papers of the City's departments and offices.
- (13) Additional duties. The City Manager shall have such other powers, and shall perform such other duties and obligations, as may be required of him or her by state law or by ordinance, resolution, or policy of the City Council. The City Manager shall also perform the duties set forth in the job description for the position of City Manager. (Prior Code, § 2.02.010.0100) (Ord. 18-2020, passed 5-20-2020)

§ 31.22 TERMS OF OFFICE.

(A) The City Manager shall serve at the pleasure of the City Council and may be terminated at any time with or without cause.

(B) The City Manager position is an at-will position and is exempt from the protections of UCA § 10-3-1105. As such, the City Manager may be terminated with or without cause, and shall not be entitled to due process appeal procedures as set forth in UCA § 10-3-1106. (Prior Code, § 2.02.010.0200) (Ord. 18-2020, passed 5-20-2020)

§ 31.23 OFFICE.

(A) The City Manager shall maintain an office in City Hall and shall spend such time in the performance of his or her duties as is necessary, or as may be required from time to time, by the City Council, but not less than 40 hours per week.

(B) The City Manager need not be a resident or qualified elector of the City, but should maintain his or her residence within a reasonable driving distance of the City. (Prior Code, § 2.02.010.0300) (Ord. 18-2020, passed 5-20-2020)

§ 31.24 OTHER EMPLOYMENT.

The City Manager shall not accept any outside employment in addition to employment by the City without prior annual written approval of the City Council. (Prior Code, § 2.02.010.0400) (Ord. 18-2020, passed 5-20-2020)

CHAPTER 30: MAYOR AND CITY COUNCIL

Section

- 30.01 Governing Body
- 30.02 City Council
- 30.03 Mayor
- 30.04 Administration Through City Manager
- 30.05 Meetings
- 30.06 Special Meetings

- 30.99 Penalty

§30.01 Governing Body

(A) "Governing Body" means that legislative body of elected officials composed of the City Council and the Mayor who represents the people of West Haven.

§30.02 City Council

(A) The governing body of the City shall be a six (6) member council form of government consisting of a Mayor and five (5) council members, which council is hereinafter referred to as the "City Council".

(B) Powers and Duties.

- (1) The City Council is the legislative body of the City; shall exercise the legislative powers and perform the legislative duties and functions of the City; and may perform such other functions as may be specifically provided or necessarily implied by law.
- (2) The City Council shall establish general policy for the operation of City government, pass ordinances and resolutions, appropriate funds and approve budgets, set all mill levies or taxes, review City administration, and perform any other duties which may be required of it by law or ordinance.
- (3) The City Council may exercise any executive or administrative power and perform or supervise the performance of any executive or administrative duty or function that has not been given to the Mayor or the City Manager.

(C) Quorum. No action of the City Council shall be official or of any effect except when a quorum of the council members are present; provided, that less than a quorum may adjourn a meeting. The number of council members necessary to constitute a quorum is three (3), excluding the Mayor.

(D) Mayor Presides. The Mayor shall be the chairperson and preside at the meetings of the City Council.

(E) Mayor Pro Tempore.

- (1) In the absence of the Mayor or because of the Mayor's inability or refusal to act, the City Council may elect a member of the City Council to preside over the meeting as Mayor Pro Tempore.
- (2) The election of a Mayor Pro Tempore shall be entered in the minutes of the City Council meeting at which they are elected.
- (3) The Mayor Pro Tempore shall preside at council meetings and perform, during the Mayor's absence, disability or refusal to act, the duties and functions of the Mayor.
- (4) Any member of the City Council elected as Mayor Pro Tempore shall still retain their power and authority as a member of the council and shall be entitled to vote as a member of the City Council on all matters.

(F) Duties and Powers of City Council Relative to City Manager. The duties and powers of the City Council relative to the City Manager shall be as follows:

- (1) Appointment and Removal of City Manager. The City Council shall appoint and remove, with the participation and vote of the Mayor, the City Manager by majority vote thereof. The City Council, with the participation of the Mayor, may conduct annual performance evaluations of the City Manager.
- (2) Policy. The City Council shall pass upon and determine all questions of policy unless such policies relate to the administrative duties of the City Manager as defined in this section, in which case the City Manager may create policies as needed to perform his or her defined duties.
- (3) Appointments. The City Council shall give advice and consent to the appointment of all officers and the appointment of persons to City boards, committees and commissions, as more particularly provided by law and in these ordinances.
- (4) Administration. The City Council shall create new departments and organize the City's administration.

§30.03 Mayor

(A) "Mayor" means the elected representative who is a member of the City Council and who presides at the meetings of the City Council.

(B) Powers and Duties – Executive Powers.

- (1) Chief Executive. The Chief Executive Officer of the City shall be the Mayor and represents the City in all of its external relationships, unless otherwise delegated to the City Manager.
- (2) Ceremonial Activities. The Mayor shall attend and, if appropriate, officiate at ceremonial activities of the City or other functions where official representation is needed.

- (3) **Preside Over Meetings.** The Mayor shall preside at all meetings of the City Council. During the Mayor's temporary absence or disability, the City Council shall elect a city councilmember to act as Mayor Pro Tempore, who during such absence or disability shall possess the power of the Mayor.
- (4) **Voting.** The Mayor shall not vote as a voting member of the City Council except in case of a tie, when he shall then give the deciding vote. The Mayor shall vote as a voting member of the City Council when the City Council is voting on whether to appoint or dismiss the City Manager; shall vote on an ordinance that enlarges or restricts the Mayor's powers, duties, or function; or as otherwise provided by law.
- (5) **Veto Power.** The Mayor shall have no power to veto any ordinance, tax levy, appropriation, or act of the City Council.
- (6) **Power to Suppress Disorder, Issue Pardons, Remit Fines.** The Mayor may exercise within the City the powers conferred upon him to suppress disorder and keep peace. The Mayor shall have authority to grant full pardons for violations of this Code or other ordinances of the City or to remit so much of any fine or penalty as belongs to the City, together with the costs of prosecution when to him it shall seem just, reasonable and a meritorious cause. The Mayor shall report to the City Council at its next session the number of fines remitted and pardons granted and the reasons therefor.
- (7) **Furnish Information, Recommendations.** The Mayor shall from time to time give the City Council information relative to the affairs of the City and shall recommend for its consideration such measures as he may deem expedient or any measure deemed to be in the best interest of the City.
- (8) **Call Out Inhabitants.** The Mayor shall have power, when necessary, to call upon every inhabitant of the City over the age of twenty-one (21) to aid in enforcing the laws of the state and ordinances of the City in suppressing riots and other disorderly conduct.
- (9) **Signature Upon Required Documents.** The Mayor shall sign all contracts (when directed by the City Council and when such authority has not otherwise been granted to the City Manager), leases, bonds and other writings on the part of the City authorized by the City Council, or required by law, or any ordinance of this City.
- (10) **Appointment of Committees:** The Mayor shall appoint, with the advice and consent of the City Council, all appointed officers of the City and all committee members authorized by ordinance or resolution of the City Council.
- (11) **Duties Generally.** The Mayor shall perform all duties which are or may be prescribed by law or ordinance, unless otherwise delegated to the City Manager.

(C) Duties and Powers of the Mayor Delegated to the City Manager.

The following duties and powers have been delegated to the City Manager by ordinance, see §31.21:

- (1) City Administration. The City Manager is the Chief Administrative Officer and shall be responsible to the City Council for the proper administration of all administrative affairs of the City. All employees of the City shall report to the City Manager.
- (2) Inspection of Books, Records. The City Manager may at reasonable time examine, and inspect the official books, papers, records or documents of the City or any officer, employee, or agency of the City.
- (3) Budget Officer. The City Manager shall act as the Budget Officer for the City and shall perform, or cause to be performed, all of the duties of such office as set forth in the State Uniform Fiscal Procedures Act for Utah Cities, as set forth in UCA §§ 10-6-101 et seq. The City Manager shall also ensure that all executive procedures and activities of the city are in compliance with such Act.
- (4) Purchasing and Claims. The City Manager shall act as purchasing agent for the City, and as such, shall implement and enforce all provisions of the ordinances and policies of the city relating to purchasing.
- (5) Finance Officer. Because the City Manager is the Chief Administrative Officer of the City and is responsible for the administration of all day to day operations, including the routine service agreements, invoices, and operations contemplated in the daily operation of the City and included in the City's budget, the City Manager is the Finance Officer for the City.
- (6) Executed, Enforced, and Observed. The City Manager shall faithfully execute and enforce all applicable laws, ordinances, rules, and regulations, and see that all franchises, leases, permits, contracts, licenses, and privileges granted by the City are observed.

§ 30.04 ADMINISTRATION THROUGH CITY MANAGER.

Except for the purpose of inquiry, the City Council and its members, including the Mayor, shall deal with the administration service solely through the City Manager, and neither the City Council, nor any member thereof including the Mayor, shall give orders to any subordinates of the City Manager, either publicly or privately.

(Prior Code, § 2.02.040) (Ord. 18-2020, passed 5-20-2020)

§ 30.05 MEETINGS.

The City Council shall convene in regular meetings on the first and third Wednesdays of each month, or at least one of such days, at 6:00 p.m. at the offices of the City or such other place as the Council may determine.

(Prior Code, § 2.02.040) (Ord. 18-2020, passed 5-20-2020)

Statutory reference:

Open and Public Meetings Act, see UCA §§ 52-4-101 to 52-4-305

§ 30.06 SPECIAL MEETINGS.

(A) If, at any time, the business of the City requires a special meeting, such meeting may be ordered by the Mayor or any two members of the Council.

(B) The order shall be entered in the minutes.

(C) It shall provide at least three hours' notice of the special meeting, and notice thereof shall be served by the Recorder on each member who did not sign the order by delivering the notice personally, or by leaving it at the member's usual place of abode.

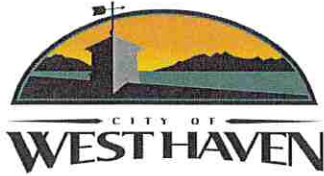
(D) The personal appearance by a member at any specially-called meeting shall constitute a waiver of the notice above required.

(E) Adjourned meetings may be held from time to time as circumstances may require.
(Prior Code, § 2.02.040) (Ord. 18-2020, passed 5-20-2020)

§ 30.99 PENALTY.

(A) Any person violating any provisions of this chapter, for which no specific penalty is prescribed, shall be subject to § [10.99](#).

(B) Any Council member violating the provisions of § [30.03](#) shall be guilty of a Class B misdemeanor and, upon conviction thereof, shall cease to be a Council member, in addition to any other penalty imposed by the court.
(Prior Code, § 2.02.040) (Ord. 18-2020, passed 5-20-2020)



WEST HAVEN CITY COUNCIL MEETING MINUTES

December 7, 2022 6:00 P.M.
City Council Chambers
4150 South 3900 West, West Haven, UT 84401

Present:	Rob Vanderwood	Mayor
	Carrie Call	Councilmember
	Kim Dixon	Councilmember
	Ryan Swapp	Councilmember
	Nina Morse	Councilmember
	Ryan Saunders	Councilmember
Staff Present:	Emily Green	City Recorder
	Matthew Jensen	City Manager
	Alike Murphy	Planner I
	Edward Mignone	City Engineer
	Amy Hugie	City Attorney
	Shari Phippen	Community Development Director

5:00 Council Workshop

Mayor Vanderwood brought the meeting to order.

Matthew Jensen went over the draft of the committee ordinance.

Shari Phippen gave an update on the moderate income housing report with the state.

Edward Mignone gave a presentation on commercial parking.

1. MEETING BROUGHT TO ORDER:

The Council met at their regularly scheduled meeting held in the Council Chambers.

Mayor Vanderwood brought the Meeting to order at 6:01 pm. and welcomed those in attendance.

2. OPENING CEREMONIES

A. Lead by Councilmember Swapp

B. Lead by Councilmember Morse

3. PUBLIC PRESENTATION

Scott Berry said that our city does not have a fire department or police department. He said that on 3500 W and 4000 S there is a speed bump, he was invited to attend a meeting with UDOT but was out of town at the time. He said that Taylor West Weber put in their new water line and created pot holes. He said that when the Westwood subdivision cut into the road, they did not have a permit and our City Engineer did not know about it and needs help with inspections.

Nicole Young gave an update on the Heart of the Holidays Event and thanked all volunteers and Councilmembers for their hard work.

Lacy Richards said she is here on behalf of her neighbor that has an ongoing concern with the street light at 4700 W and 4100 S on the south west corner that has been shining in the window and preventing her from sleeping well.

4. UPCOMING EVENTS

Senior Lunch Bunch-December 28, 2022-11:30 AM

Howdy Hall with Mayor and Friends-December 28, 2022-5:30-6:30 PM

5. COUNCIL UPDATES

Councilmember Dixon said that the Youth Council will be finalizing who is going to the local official's day with the Lt. Governor.

6. **ACTION ON CONSENT AGENDA**

A. CITY COUNCIL MINUTES

MEETING HELD

November 16, 2022

B. CITY COUNCIL SPECIAL WORK SESSION MINUTES

MEETING HELD

November 17, 2022

C. SUNSET KUBOTA

\$10,579.00

Inv.#Plow/Sand/Salt Spreader

D. GARDNER ENGINEERING

\$32,026.75

Inv.#0922163-0922181

E. LAKEFRONT LLC

\$123,937.81

Inv.#3989

Councilmember Call made a motion to approve the consent agenda. Councilmember Morse seconded the motion. Roll Call: Councilmember Call, aye; Councilmember Dixon, aye; Councilmember Saunders, aye; Councilmember Morse, aye; Councilmember Swapp, aye; **Vote was unanimous.**

7. **ACTION ON PLANNING COMMISSION MEETING RECOMMENDATION(S)**

A. ACTION ON ORDINANCE 33-2022-REZONE FROM A-1 TO C-2-3613 S MIDLAND DRIVE (PARCEL NUMBER 080220004)-COLDWATER CAPITAL

Mitch Morris said that they would like to use the frontage for retail uses.

Councilmember Swapp asked if the red line through the neighbor's homes is incorrect.

Mr. Morris confirmed that is not correct and its actually the fence line that is correct.

Councilmember Swapp asked if there is going to be a concrete barrier in the median.

Edward Mignone said that Midland Drive is under Utah Department of Transportation's jurisdiction but we could suggest it.

Shari Phippen said that they have had initial meetings with UDOT.

Councilmember Morse made a motion to adopt ordinance 33-2022. Councilmember Swapp seconded the motion. Roll Call: Councilmember Call, aye; Councilmember Morse, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

8. **PRESENTATION-COMMUNITY CENTER FEASIBILITY REPORT-WPA ARCHITECTS**

Dillan Hare and Bruce Fallon gave a presentation on the community center feasibility.

9. **PRESENTATION-GREEN FARMS CONCEPT DESIGN REPORT FOR COMMUNITY CENTER DESIGN, POND DESIGN, AND PLAYGROUND DESIGN-NILSON HOMES**

Mike Flood gave a presentation on the concept designs for the community center, pond, and playground in Green Farms.

10. **PUBLIC HEARING-For the purpose of receiving input on adopting and accepting certain fees to be charged by the City Attorney's office**

Amy Hugie said that this is to allow for us to charge for the system required for discovery.

Councilmember Dixon made a motion to enter into public hearing. Councilmember Morse seconded the motion. Councilmember Call, aye; Councilmember Morse, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

Mayor Vanderwood invited the public up for comment.

No one came up at this time.

Councilmember Saunders made a motion to leave public hearing. Councilmember Morse seconded the motion. Councilmember Call, aye; Councilmember Morse, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

11. **ACTION ON PUBLIC HEARING-Adoption of Ordinance 34-2022**-Adopting and accepting certain fees to be charged by the City Attorney's office.

Councilmember Saunders made a motion to adopt ordinance 34-2022. **Councilmember Dixon seconded** the motion. **Roll Call:** Councilmember Call, aye; Councilmember Morse, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

12. **PUBLIC HEARING-For the purpose of receiving public input on adopting the storm water impact fee analysis (IFA)**
Edward Mignone said that this is to be able to impose impact fees on future developments on city infrastructure by adopting the storm water impact fee analysis.

Councilmember Dixon made a motion to enter into public hearing. **Councilmember Call seconded** the motion. Councilmember Call, aye; Councilmember Morse, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

Mayor Vanderwood invited the public up for comment.

No one came up at this time.

Councilmember Saunders made a motion to leave public hearing. **Councilmember Morse seconded** the motion. Councilmember Call, aye; Councilmember Morse, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

13. **ACTION ON PUBLIC HEARING-Adoption of Ordinance 35-2022**-adopting the storm water impact fee analysis (IFA)
Susie Becker explained that the analysis sets the fee as \$3,526.69 per acre.

Councilmember Dixon made a motion to adopt ordinance 35-2022 with the fee set as \$3,526.69 per acre. **Councilmember Saunders seconded** the motion. **Roll Call:** Councilmember Call, aye; Councilmember Morse, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

14. **ACTION ON RESOLUTION 36-2022-RIGHT OF WAY ACQUISITIONS-3300 SOUTH-3 PARCELS**

Councilmember Call made a motion to adopt resolution 36-2022. **Councilmember Dixon seconded** the motion. **Roll Call:** Councilmember Call, aye; Councilmember Morse, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

15. **PUBLIC HEARING-For the purpose of receiving public input on readopting a procurement policy**

Councilmember Morse made a motion to enter into public hearing. **Councilmember Call seconded** the motion. Councilmember Call, aye; Councilmember Morse, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

Mayor Vanderwood invited the public up for comment.

No one came up at this time.

Councilmember Dixon made a motion to leave public hearing. **Councilmember Morse seconded** the motion. Councilmember Call, aye; Councilmember Morse, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

16. **ACTION ON PUBLIC HEARING-Adoption of ordinance 36-2022**-readopting a procurement policy
Matthew Jensen said that there have been three amendments proposed. The first has some clarifying language throughout the proposed ordinance, the second adds fiscal responsibility, training, and audits. The third proposed amendment adds a sunset clause the ordinance.

Amy Hugie expressed concern that if there is a sunset clause it could potentially leave us without an ordinance for purchasing.

Mayor Vanderwood said the intent it to make sure that this was revisited in an appropriate amount of time.

Councilmember Swapp asked for a detailed quarterly audit report from the City Manager to be added to this. This would allow the ordinance to be addressed at the next scheduled city council meeting

Councilmember Saunders agreed that a quarterly audit would be helpful.

Councilmember Dixon made a motion to table. **Councilmember Morse seconded** the motion. Councilmember Call, aye; Councilmember Morse, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, nay; **Motion passes 4:1.**

17. **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; and pending or reasonably imminent litigation; to be held in accordance with the provisions of Utah Code 52-4-205.

Councilmember Morse made a motion to enter into the executive session. **Councilmember Dixon seconded** the motion. Councilmember Call, aye; Councilmember Morse, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

Councilmember Dixon made a motion to leave the executive session. **Councilmember Morse seconded** the motion. Councilmember Call, aye; Councilmember Morse, aye; Councilmember Saunders, aye; Councilmember Dixon, aye; Councilmember Swapp, aye; **Vote was unanimous.**

Mayor Vanderwood said the executive session was used to discuss the character and professional competence of an individual; and pending or reasonably imminent litigation.

18. **ADJOURNMENT**

Councilmember Dixon moved to adjourn at 9:34 PM. **Councilmember Call seconded** the motion. Councilmember Dixon, aye; Councilmember Call, aye; Councilmember Morse, aye; Councilmember Saunders, aye; Councilmember Swapp, aye; **Vote was unanimous.**

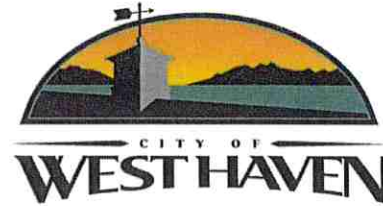
Emily Green

City Recorder

Date Approved: _____

STAFF REPORT

TO: City Council
FROM: Matt Jensen
DATE: December 21, 2022
SUBJECT: Site Agreements for UTOPIA



This staff report presents a resolution on four site agreements between West Haven City and UTOPIA for fiber huts.

BACKGROUND

With the approval to partner with UTOPIA on broadband infrastructure, a requirement of the City is to provide locations for fiber huts which will act as hubs for the fiber connections throughout the City. UTOPIA design based their rollout on the use of four such locations.

ANALYSIS

The following documents provide the agreements which allow UTOPIA to construct the four (4) fiber huts. Each of these are located on City-owned property and will require separate agreements. These four locations include:

- 4196 S 3900 W – City Hall parcel. SW corner
- 4205 S 4800 W – Fair Grove Park. Near turnaround on 4800 W
- 2897 W 3300 S – R. Kenneth Baldwin Country Park. Near west entrance
- 2431 W 1775 S – Holmes Estate Park. NE corner

UTOPIA will pay an annual easement cost for each and the agreements terminate upon one-year of abandonment of property (UTOPIA ceasing operations). City Engineer and City Attorney have reviewed the agreements and are agreeable to the provisions therein.

RECOMMENDATION

Staff requests approval by the Council on the resolution allowing the Mayor to sign the four site agreements.

RESOLUTION OF WEST HAVEN CITY AUTHORIZING ADOPTION OF THE CABLE AND FACILITIES EASEMENTS BETWEEN WEST HAVEN CITY AND UTAH INFRASTRUCTURE AGENCY; AUTHORIZING THE CITY MAYOR TO SIGN THIS RESOLUTION; AUTHORIZING THE CITY MANAGER TO SIGN THE EASEMENTS 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 four Cable and Facilities Easements, the City feels that the Cable and Facilities Easements will best serve the citizens of the City and now desires to adopt those easements that are 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 four Cable and Facilities Easements between West Haven City and UIA, a copy of which is attached as Attachment A to this Resolution, are hereby adopted by the City Council.

2. That the City Manager is authorized to sign any and all documents necessary to effect these easements, including signing the easements themselves.
3. That the Mayor is authorized to sign this Resolution adopting the four Cable and Facilities Easements.

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 21st day of December, 2022.

PASSED AND ADOPTED BY THE CITY COUNCIL OF WEST HAVEN CITY, STATE OF UTAH, on this 21st day of December, 2022.

WEST HAVEN CITY

Mayor Rob Vanderwood

ATTEST:

City Recorder

ATTACHMENT "A"

FOUR CABLE AND FACILITIES EASEMENTS BETWEEN WEST HAVEN CITY AND UTAH INFRASTRUCTURE AGENCY ("UIA")

1. WHV01 (City Hall, 4196 S 3900 W)
2. WHV02 (Fair Grove Park, 4205 S 3900 W)
3. WHV03 (Kenneth Baldwin Country Park, 2987 S 3300 W)
4. WHV04 (Holmes Estate Park, 2431 W 1775 S)

WHEN RECORDED MAIL TO:

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

WHV01 (City Hall, 4196 S 3900 W)

APN #08-050-0006

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 4196 South 3900 West, 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 ON THE EAST SIDE OF 3900 WEST STREET, WHICH POINT LIES SOUTH 1287.42 FEET AND EAST 21.68 FEET FROM THE NORTH 1/4 CORNER OF SECTION 9, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE & MERIDIAN; AND RUNNING THENCE S89°46'45"E 34.00 FEET; THENCE S00°27'16"W 16.00 FEET; THENCE N89°46'45"W 34.00 FEET; THENCE N00°27'16"E 16.00 FEET TO THE POINT OF BEGINNING. CONTAINING 544 SF/0.01 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

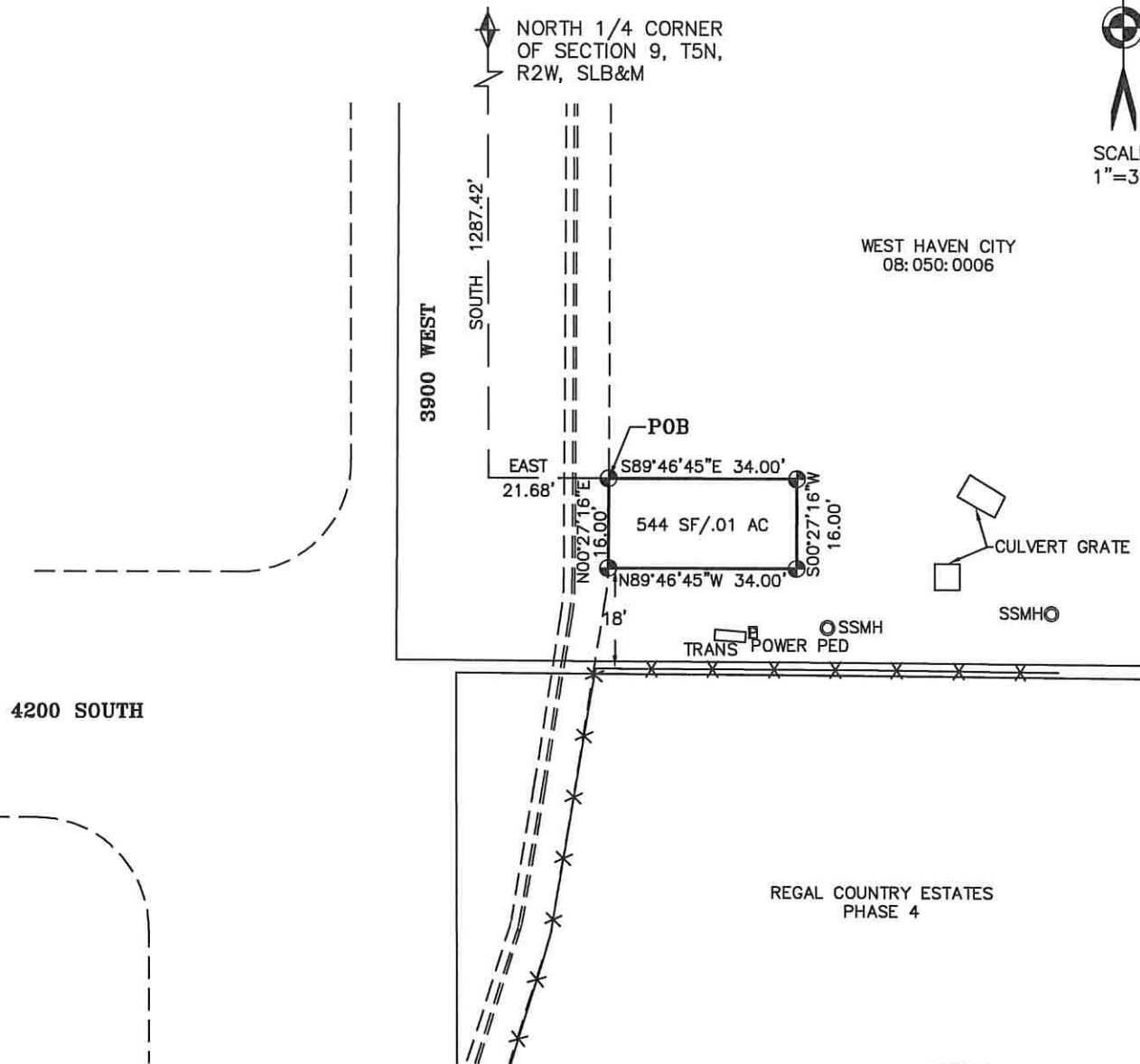
ATTEST:

APPROVED AS TO FORM:

Secretary

UIA General Counsel

WHV01 HUT EXHIBIT



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

BEGINNING AT A POINT ON THE EAST SIDE OF 3900 WEST STREET, WHICH POINT LIES SOUTH 1287.42 FEET AND EAST 21.68 FEET FROM THE NORTH 1/4 CORNER OF SECTION 9, TOWNSHIP 5 NORTH, RANGE 2 WEST, SALT LAKE BASE & MERIDIAN; AND RUNNING THENCE S89°46'45"E 34.00 FEET; THENCE S00°27'16"W 16.00 FEET; THENCE N89°46'45"W 34.00 FEET; THENCE N00°27'16"E 16.00 FEET TO THE POINT OF BEGINNING. CONTAINING 544 SF/0.01 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



WHV01 - HUT

CITY HALL
WEST HAVEN, UTAH

SHEET 1 OF 1
DATE 10/27/22
JOB NO. LE4195

LOCATION

PART OF
SECTION 9,
T5N, R2W,
SLB&M

WHEN RECORDED MAIL TO:

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

WHV02, (Fair Grove Park, 4205 S 3900 W)

APN #08-495-0002

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 4205 South 4800 West, 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°57'04"E 2091.70 FEET ALONG THE SECTION LINE AND SOUTH 1101.61 FEET FROM THE NORTHWEST CORNER OF SECTION 8, T5N, R2W, SLB&M; SAID POINT BEING THE NORTHWEST CORNER OF FAIR GROVE PARK PARCEL "B"; AND RUNNING THENCE N89°45'04"E 10.00 FEET; THENCE S00°06'11"E 221.27 FEET; THENCE N89°47'06"E 66.10 FEET; THENCE N00°12'54"W 10.00 FEET; THENCE N89°47'06"E 18.00 FEET; THENCE S00°12'54"E 10.00 FEET; THENCE N89°47'06"E 181.19 FEET; THENCE S00°12'54"E 12.00 FEET TO THE SOUTH LINE OF SAID PARCEL "B"; THENCE ALONG SOUTH LINE S89°47'06"W 275.31 FEET TO THE WEST LINE OF SAID PARCEL "B"; THENCE ALONG WEST LINE N00°06'11"W 233.26 FEET TO THE POINT OF BEGINNING. CONTAINING 0.13 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

S 89°57'04" E
2091.70'

NW CORNER OF
SECTION 8, T5N,
R2W, SLB&M (BC)

WHV02 HUT EXHIBIT

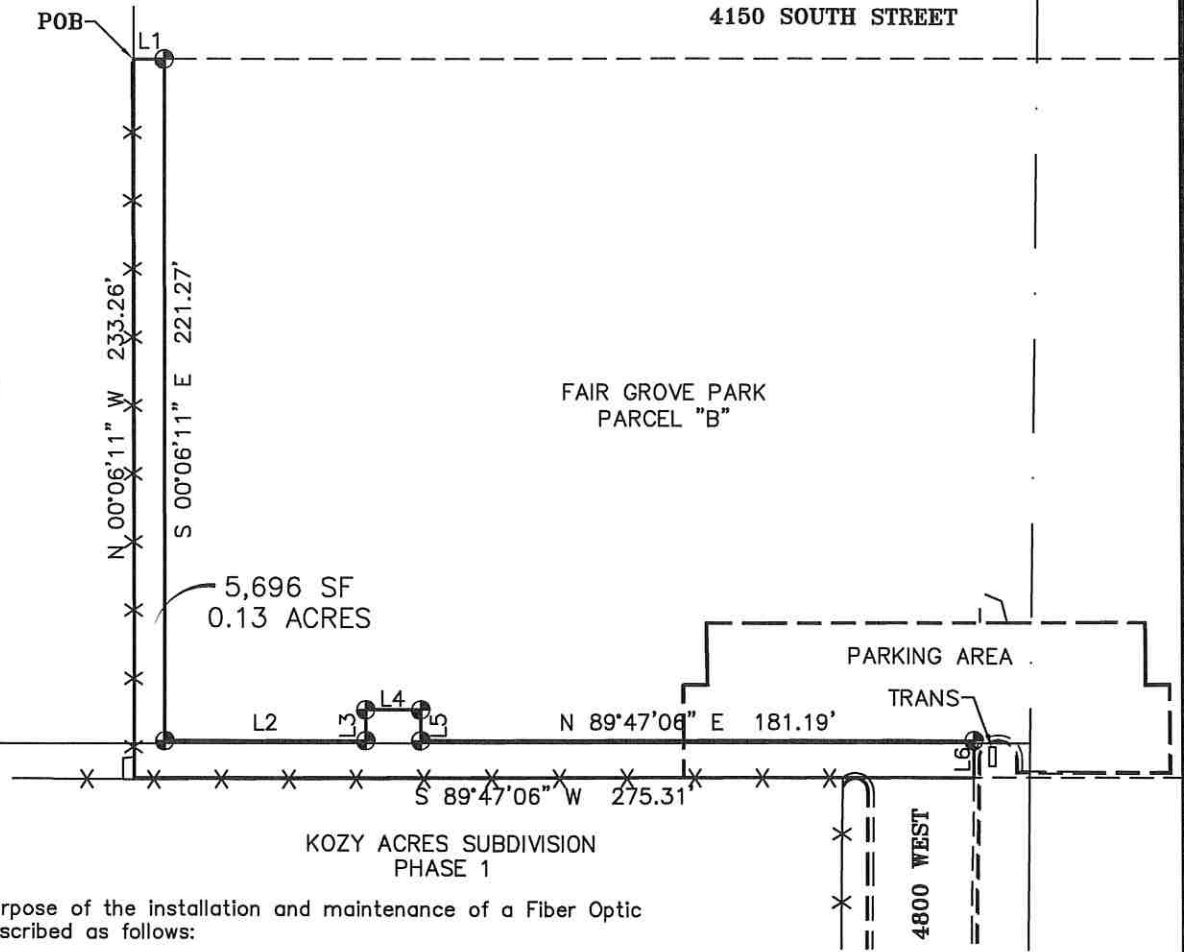
LINE	BEARING	DISTANCE
L1	N 89°45'04" E	10.00'
L2	N 89°47'06" E	66.10'
L3	N 00°12'54" W	10.00'
L4	N 89°47'06" E	18.00'
L5	S 00°12'54" E	10.00'
L6	S 00°12'54" E	12.00'



SCALE
1"=60'

FAIR GROVE ESTATES

FAIR GROVE PARK
PARCEL "B"



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

BEGINNING AT A POINT WHICH LIES S89°57'04"E 2091.70 FEET ALONG THE SECTION LINE AND SOUTH 1101.61 FEET FROM THE NORTHWEST CORNER OF SECTION 8, T5N, R2W, SLB&M; SAID POINT BEING THE NORTHWEST CORNER OF FAIR GROVE PARK PARCEL "B"; AND RUNNING THENCE N89°45'04"E 10.00 FEET; THENCE S00°06'11"E 221.27 FEET; THENCE N89°47'06"E 66.10 FEET; THENCE N00°12'54"W 10.00 FEET; THENCE N89°47'06"E 18.00 FEET; THENCE S00°12'54"E 10.00 FEET; THENCE N89°47'06"E 181.19 FEET; THENCE S00°12'54"E 12.00 FEET TO THE SOUTH LINE OF SAID PARCEL "B"; THENCE ALONG SOUTH LINE S89°47'06"W 275.31 FEET TO THE WEST LINE OF SAID PARCEL "B"; THENCE ALONG WEST LINE N00°06'11"W 233.26 FEET TO THE POINT OF BEGINNING. CONTAINING 0.13 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



WHV02 - HUT

FAIR GROVE PARK
WEST HAVEN, UTAH

SHEET 1 OF 1
DATE 10/27/22
JOB NO. LE4195

LOCATION

PART OF
SECTION 8,
T5N, R2W,
SLB&M

WHEN RECORDED MAIL TO:

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

WHV03, (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 865.92 FEET ALONG THE SECTION LINE AND SOUTH 37.00 FEET FROM THE NORTH 1/4 CORNER OF SECTION 3, T5N, R2W, SLB&M; SAID POINT BEING ON A FENCE ON THE SOUTH SIDE OF 3300 SOUTH STREET; AND RUNNING THENCE ALONG SAID FENCE THE FOLLOWING (2) CALLS: (1) ALONG THE ARC OF A 12.00 FOOT RADIUS CURVE TO THE RIGHT A DISTANCE OF 4.14 FEET (THE CHORD BEARS N79°19'43"E 4.12 FEET), (2) N89°13'19"E 12.07 FEET; THENCE S04°23'44"W 77.34 FEET; THENCE N85°36'16"W 16.00 FEET; THENCE N04°23'44"E 75.18 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 HUT EXHIBIT

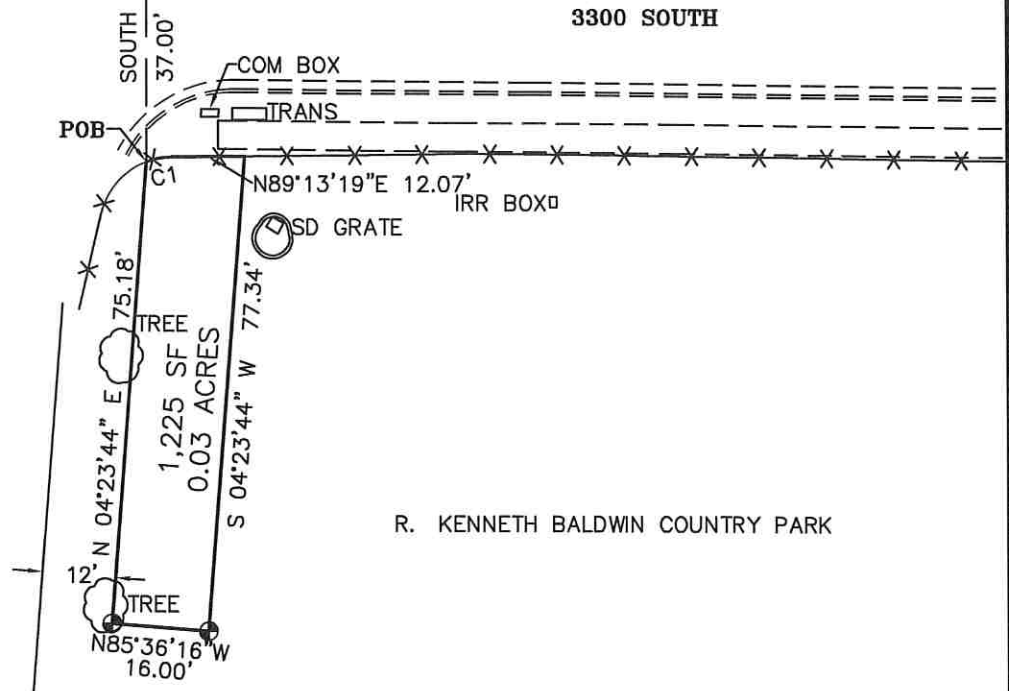


SCALE
1"=30'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	12.00'	4.14'	4.12'	N 79°19'43" E	19°47'12"

S 89°36'29" E 865.92'

NORTH 1/4 CORNER
OF SECTION 3, T5N,
R2W, SLB&M (BC)



R. KENNETH BALDWIN COUNTRY PARK

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

BEGINNING AT A POINT WHICH LIES S89°36'29"E 865.92 FEET ALONG THE SECTION LINE AND SOUTH 37.00 FEET FROM THE NORTH 1/4 CORNER OF SECTION 3, T5N, R2W, SLB&M; SAID POINT BEING ON A FENCE ON THE SOUTH SIDE OF 3300 SOUTH STREET; AND RUNNING THENCE ALONG SAID FENCE THE FOLLOWING (2) CALLS: (1) ALONG THE ARC OF A 12.00 FOOT RADIUS CURVE TO THE RIGHT A DISTANCE OF 4.14 FEET (THE CHORD BEARS N79°19'43"E 4.12 FEET), (2) N89°13'19"E 12.07 FEET; THENCE S04°23'44"W 77.34 FEET; THENCE N85°36'16"W 16.00 FEET; THENCE N04°23'44"E 75.18 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 - HUT

KENNETH BALDWIN COUNTRY PARK
WEST HAVEN, UTAH

SHEET 1 OF 1
DATE 11/07/22
JOB NO. LE4195

LOCATION

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

WHEN RECORDED MAIL TO:

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

WHV04, (Holmes Estate Park, 2431 W 1775 S)

APN #15-420-0069

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 2431 West 1775 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°39'50"E 1806.12 FEET ALONG THE SECTION LINE AND NORTH 33.00 FEET FROM THE SOUTHWEST CORNER OF SECTION 23, T6N, R2W, SLB&M; SAID POINT BEING ON THE NORTH SIDE OF 1800 SOUTH STREET; AND RUNNING THENCE N00°20'10"E 141.16 FEET; THENCE S62°16'15"W 12.50 FEET; THENCE N27°43'45"W 17.00 FEET; THENCE N62°16'15"E 47.64 FEET; THENCE S00°21'13"W 19.27 FEET; THENCE S62°16'15"W 9.07 FEET; THENCE S00°20'10"W 149.16 FEET; THENCE N89°40'13"W 15.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.07 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

WHV04 HUT EXHIBIT

1775 SOUTH

2425 WEST



SCALE
1"=40'

SSMH

N 62°16'15" E
47.64'

LINE	BEARING	DISTANCE
L1	S 62°16'15" W	12.50'
L2	N 27°43'45" W	17.00'
L3	S 00°21'13" W	19.27'
L4	S 62°16'15" W	9.07'
L5	N 89°40'13" W	15.00'

2475 WEST

HOLMES ESTATE
PARK

STORM DRAIN

2,910 SF
0.07 ACRES

15'

POB

NORTH
33.00'

1800 SOUTH

SOUTHWEST CORNER
OF SECTION 23, T6N,
R2W, SLB&M (BC)

S 89°39'50" E 1806.12'

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

BEGINNING AT A POINT WHICH LIES S89°39'50"E 1806.12 FEET ALONG THE SECTION LINE AND NORTH 33.00 FEET FROM THE SOUTHWEST CORNER OF SECTION 23, T6N, R2W, SLB&M; SAID POINT BEING ON THE NORTH SIDE OF 1800 SOUTH STREET; AND RUNNING THENCE N00°20'10"E 141.16 FEET; THENCE S62°16'15"W 12.50 FEET; THENCE N27°43'45"W 17.00 FEET; THENCE N62°16'15"E 47.64 FEET; THENCE S00°21'13"W 19.27 FEET; THENCE S62°16'15"W 9.07 FEET; THENCE S00°20'10"W 149.16 FEET; THENCE N89°40'13"W 15.00 FEET TO THE POINT OF BEGINNING. CONTAINING 0.07 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



WHV04 - HUT

HOLMES ESTATE PARK
WEST HAVEN, UTAH

SHEET 1 OF 1
DATE 10/27/22
JOB NO. LE4195

LOCATION

PART OF
SECTION 23,
T6N, R2W,
SLB&M