

DISCUSSION DRAFT

FIBER COMMUNICATIONS SERVICE CONTRACT

Dated as of _____, 2019

between

UTAH INFRASTRUCTURE AGENCY

and

HIDEOUT, UTAH

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FIBER COMMUNICATIONS SERVICE CONTRACT

This Fiber Communications Service Contract (the “Contract”) is entered into as of _____, 2019, by and between the Utah Infrastructure Agency (“UIA”), an interlocal cooperative and separate legal entity, body politic and corporate and a political subdivision of the State of Utah, organized under the Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated 1953, as amended, and Hideout, Utah (the “Town”), a municipal corporation and a political subdivision of the State of Utah (UIA and the Town are sometimes referred to individually as a “Party” and collectively as “Parties” herein).

R E C I T A L S

1. Pursuant to Section 10-8-14, Utah Code Annotated 1953, as amended, cities may construct, maintain, and operate telecommunication lines and cable television lines.

2. Pursuant to the provisions of the Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated 1953, as amended (the “Interlocal Act”), cities may exercise and enjoy jointly with other cities any power, privileges or authority exercised or capable of exercise by a city.

3. The Interlocal Act permits local governmental units to make the most efficient use of their power by enabling them to cooperate with other local governmental units on the basis of mutual advantage and thereby to provide services and facilities in a manner and under forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs of development of local communities and will provide the benefit of economy of scale, economic development, and utilization of natural resources for the overall promotion of the general welfare of the State of Utah.

4. Pursuant to the Interlocal Act, certain municipalities organized UIA to provide for the acquisition, construction, and installation of facilities, fiber wires and equipment together with related improvements for the purpose of connecting properties within such municipalities and elsewhere to an advanced fiber optic communications network (the “UIA Network”).

5. UIA is a separate legal entity, body politic and corporate and a political subdivision of the State of Utah regularly created, established, organized and existing under and by virtue of the provisions of the Interlocal Act and of the Constitution of the State of Utah.

6. The Town has determined that there is a need within the Town to provide Connection Services (as herein defined) to its residents.

7. UIA has determined that it has excess capacity in the UIA Network to provide the Connection Services and desires to offer such excess capacity to the Town.

8. The Town now desires to cause to be acquired, installed, constructed and completed an advanced fiber optic communications network to serve residents of the Town

through the undertaking of the improvements contemplated hereby (as more fully described herein, the “Improvements”) and desires further that UIA shall acquire and install said Improvements and to pledge to UIA and remit to the hereinafter defined Trustee an amount of its sales tax revenues and franchise tax revenues (as hereinafter defined) to accomplish the objectives set forth herein.

9. The Improvements will be owned by UIA (as more particularly described herein, the “UIA-Owned Improvements”).

10. It is the intention of the Parties that the Improvements to provide the Connection Services be operated and managed for the mutual benefit of the Parties and that the Town will pay or cause to be paid fees to UIA calculated in accordance with Section 3.1 of this Contract. The amounts paid by the Town hereunder do not constitute a purchase of any assets or facilities owned by UIA, and are made solely in consideration for the Connections Services provided by UIA to the Town.

11. The Connections Services provided under this Contract are not Cable Television Services or Public Telecommunications Services as defined in the Municipal Cable Television or Public Telecommunications Services Act, Title 10, Chapter 18, Utah Code Annotated 1953, as amended (the “Telecommunications Act”).

AGREEMENT

In consideration of the acquisition and installation of the Improvements and the Connection Services herein provided, the benefit the Town shall receive from such activities and the mutual covenants contained herein, the Parties agree as follows:

ARTICLE I DEFINITIONS

In addition to the defined terms defined in the recitals and elsewhere in this Contract, the following terms, whether in the singular or in the plural, when used herein and in the exhibits hereto, shall have the meanings set forth below:

“Aggregation Site(s)” means the real property or easement on real property on which the Hideout Fiber Hut(s) will be located.

“Agreed Upon End Users” means the number of End Users to be provided services pursuant to this Contract to satisfy the Town’s obligation to meet the UIA Revenue Requirement, which shall be 164 End Users. UIA estimates that the Agreed Upon End Users are expected to produce approximately \$82,500.00 of Revenues annually.

“Capital Costs” means (a) the payment of any obligations incurred by UIA to finance or refinance the costs of the Improvements, and (b) amounts required to be deposited from time to time into required reserves established in connection with any financing referenced in (a) above.

“City Fees” means fees paid by the Town to UIA for the provision of Connection Services to Town owned facilities or resources at the Product Catalog wholesale rates of UIA pursuant to Section 3.22 below.

“City Fiber Hut(s)” means the shelter(s), electronics, switches, routers, fiber terminations, conduits, cables, racking, generator, UPS units, cooling systems, and other support systems to support the Mainline System, Interconnect(s), and other future potential interconnects located on the Aggregation Site.

“City Network” means fiber optic lines, connection lines and related improvements acquired and constructed by UIA together with the acquisition by UIA of access rights and capacity in the UIA Network and UTOPIA Network and access rights and capacity in other networks within the Town or for the benefit of the Town.

“Communications Enterprise” means the enterprise established by the Town pursuant to the Uniform Fiscal Procedures Act for Utah Cities, Title 10, Chapter 6, Utah Code Annotated 1953, as amended, to facilitate the providing of high speed communications services through the City Network to new End Users within the Town pursuant to this Contract.

“Connection Services” means the wholesale services provided by UIA to the Town pursuant to this Contract whereby End Users within the Town have access to the

Improvements through which they may contract with private providers to receive the Cable Television Services and Public Telecommunication Services (as those terms are defined in the Telecommunications Act) provided through the City Network. The term Connection Services includes Connection Services Capacity and is more particularly described in Exhibit A attached hereto and incorporated herein.

“Connection Services Capacity” means the access rights to and capacity in the City Network.

“Contract” means this Fiber Communications Service Contract as the same may be amended from time to time in accordance with Section 5.15 herein.

“End Users” means those residential end users to be provided services pursuant to this Contract.

“Fiscal Year” means a period commencing on July 1 and ending on the next succeeding June 30.

“Franchise Tax Revenues” means all franchise tax revenues received by the City pursuant to Title 10, Chapter 1, Part 3, Utah Code Annotated 1953, as amended, in an amount up to \$82,500.00 annually.

“Hook-up Lease Revenues” means the revenues that are generated pursuant to the Hook-up Leases.

“Hook-up Leases” means any and all agreements between the Town or UIA and each End User that allows such End User to connect to the City Network. The monthly fee charged to an End User in the Town for a Hook-up Lease will not exceed \$42.00 without a written agreement between the Town and UIA. The monthly fee charged to an End User in the Town for a Hook-up Lease may be decreased to \$30.00 upon mutual agreement of the Parties in writing if the total number of End Users in the Town is greater than 230.

“Improvements” means those facilities, improvements, and access, lease, use and/or capacity rights acquired, constructed, and/or installed, operated and maintained by UIA within the Town or specifically undertaken for the benefit of the Town to provide Connection Services to and within the Town to the End Users pursuant to this Contract, as more fully described in Exhibit A attached hereto, and incorporated herein.

“Interconnect” means the fiber route(s) between the UTOPIA Network backbone and the connection point to the Mainline System.

“Mainline System” means all of the newly installed fiber, conduits, handholes restorations and other materials along the roads and within the Town limits as depicted in Exhibit C hereto.

“Non-residential Fees” means fees paid to UIA by non-residential customers on the City Network. Non-residential customers will not be required to enter into a Hook-up Lease.

“Operating Contingency” means an unplanned event or circumstance, a series of events or circumstances, or any restriction or condition imposed by any governmental authority which reduces and materially adversely affects access to the Improvements.

“Original Term” has the meaning ascribed to such term in Section 5.16 hereof.

“Revenues” means the Service Fees, City Fees, Non-residential Fees, and the Hook-up Lease Revenues generated from services through the City Network to End Users within the Town pursuant to this Contract.

“Sales Tax Revenue” means all sales tax revenue that the Town collects under Sections 59-12-Part 2 of the Utah Code Annotated 1953, as amended, in an amount up to \$41,250.00 annually.

“Service Fees” means all fees (other than fees relating to the Hook-up Leases) that may be charged by or on behalf of the Town to the End Users of the Improvements. The Service Fees of the Town shall be payable to UIA in consideration for the Connection Services provided by UIA to the Town pursuant to this Contract. The Service Fees shall be calculated and paid pursuant to Article III of this Contract. Service Fees do not include any Hook-up Lease Revenues.

“Shortfall Payment” means payment by the Town to UIA in satisfaction of any obligation that may arise pursuant to Section 3.1, Section 3.2, Section 3.3, or Section 3.6.

“Supplemental Indenture” means the supplemental indenture to that certain General Indenture of Trust dated as of [_____], 2018 between UIA and _____.

“Town” means the Town of Hideout, Utah.

“Trustee” means the entity serving as trustee under the Supplemental Indenture entered by UIA.

“UIA” means the Utah Infrastructure Agency, a separate legal entity, body, politic and corporate and a political subdivision of the State of Utah, created pursuant to the Interlocal Act.

“UIA Network” means fiber optic lines, connection lines and related improvements and facilities acquired, constructed and owned by UIA, including all access rights and capacity in the UTOPIA Network and access rights and capacity in other networks.

“UIA-Owned Improvements” means the City Fiber Hut(s), Interconnect(s), conduits, fiber cables, enclosures, and electronics constructed within the Town under the terms of this Contract.

“UIA Revenue Requirement” means the sum of all Capital Costs of UIA relating to the Improvements during each Fiscal Year or other applicable period. The annual UIA Revenue Requirement is \$82,500.00.

“Uncontrollable Forces” means any cause beyond the control of the Party affected, including, but not limited to, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, war, riot, civil disturbances, labor disturbance, sabotage, and restraint by court or public authority.

“UTOPIA” means the Utah Telecommunication Open Infrastructure Agency, a separate legal entity, body, politic and corporate and a political subdivision of the State of Utah, created pursuant to the Interlocal Act.

“UTOPIA Network” means UTOPIA’s wholesale telecommunications network, together with any additions, repairs, renewals, replacements, expansions, extensions and improvements to said network.

“UTOPIA Product Catalog” means the catalog of products and services maintained by UIA.

ARTICLE II

CONNECTION SERVICES AND ACQUISITION OF IMPROVEMENTS

Section 2.1 Connection Services. UIA shall provide to and within the Town and the Town shall receive from UIA, Connection Services, including Connection Services Capacity, sufficient to allow not less than the Agreed Upon End Users benefitting from the Improvements within the Town to connect to the City Network. All construction work performed by or on behalf of UIA within the Town shall be pursuant to the terms of a franchise agreement between UIA and the Town, any construction or grading permits required by the Town, and any design standards adopted by the Town by ordinance at the time that the construction work is performed.

Section 2.2 Availability. UIA shall provide continuous Connection Services barring only emergency or scheduled downtime, curtailments, and Operating Contingencies.

Section 2.3 Acquisition, Date of Commencement and Substantial Completion.

(a) UIA shall undertake and perform all of the work associated with the acquisition, installation, construction and completion of the Improvements. The date of commencement of the work relating to the Improvements shall be the date of full execution and delivery of this Contract or if provision is made for a later date to be fixed in a notice to proceed issued by the Town, that fixed date.

(b) UIA shall achieve substantial completion of the Improvements, which will allow at least 90% of the End Users within the areas depicted in green on Exhibit C to sign up and schedule installation for services under UIA’s typical process and timeframes, not later than 270 days from the date of commencement.

(c) UIA will complete construction to End Users within the areas depicted in red on Exhibit C or any future annexed areas of the Town whenever at least 50% of such extension may be completed through open trench opportunities or conduit placed by a developer. UIA may evaluate and construct extensions of the City Network under other conditions as UIA deems feasible in its sole discretion. Construction to End Users within the areas depicted in red on Exhibit C or any future annexed areas of the Town will not increase the GMP, as defined in Section 2.4 or require additional commitment from the Town pursuant to Section 3.3 or Section 3.6.

(d) The Town shall provide a parcel of real property or an easement to a parcel of real property to site each of the required Aggregation Sites, and all required City Fiber Huts, within 30 days from the date of commencement.

Section 2.4 Price of Improvements.

(a) The Town and UIA agree that the Guaranteed Maximum Price (the “GMP” or the “Contract Sum”) for the Contract will be One Million Ninety-eight Thousand Dollars (\$1,098,000.00) (broken out as follows: Nine Hundred Thirty-four Thousand Dollars (\$934,000.00) for the Mainline System, including the City Fiber Hut(s); One Hundred Sixty-four Thousand Dollars (\$164,000.00) for installations. This GMP is based on the acquisition, installation, construction and completion of the Improvements more particularly set forth in Exhibit B hereto.

(b) In addition to the GMP, the UIA Revenue Requirement includes UIA’s costs to finance construction of the Improvements subject to the GMP, which includes the following financing costs: proportional costs of issuance of Twenty-four Thousand Three Hundred Dollars (\$24,300.00), and two years of capitalized interest of One Hundred Twenty-two Thousand Dollars (\$122,000.00). As part of the UIA Revenue Requirement, the Town also agrees to pay interest at the rate paid by UIA to finance construction, which is 4.35% annually.

Section 2.5 Cost Overruns. UIA shall be solely responsible for the acquisition, installation, construction and completion of the Improvements and Connection Services and shall also be responsible for any cost overruns above and beyond the GMP set forth in Section 2.4 hereof.

Section 2.6 Residential Installations. UIA will perform residential installations to subscribed locations within the City Network as part of the Hook-up Lease entered into with an End User. Installations include the typical signup process available through UIA’s online ordering system, scheduling, materials and labor for the placement of drop conduit, fiber cable, splicing, indoor fiber termination electronics, and a single Cat5e installation to the subscriber’s router. Only a standard UIA installation based on a lowest-cost-path is included in the Hook-up Lease. Alternative routes, cable fishing, or subscriber preferences that increase the expense of UIA’s standard installation may be negotiated with UIA or a UIA approved contractor on a case-by-case basis at the subscriber’s expense.

Section 2.7 Non-Residential Installations. Non-residential customers are not End Users, and UIA will perform non-residential (i.e. business) installations at UIA's own expense based on the terms of the then-current UTOPIA Product Catalog.

Section 2.8 Acceptance. UIA will provide as-built drawings, inspection reports, and test documentation of the completed Improvements to the Town within 10 business days after receiving a written request from the Town.

Section 2.9 Repair. UIA will be responsible for repairing or replacing any conduit, fiber, or system electronics that become damaged or defective from normal wear and use of City Network assets. In the event that another party is responsible for the damage, including but not limited to traffic accidents, construction, and relocations, UIA will pursue compensation from the responsible party. In the event that repair/replacement costs are not recoverable from a third party, including but not limited to vandalism, natural disaster, acts of God, or inability to identify responsible party, UIA will be responsible for repair costs.

Section 2.10 Electronics Maintenance. UIA is responsible for maintaining the electronics of the City Network, including aggregation switches, subscriber demarcation devices, and transceivers.

UIA is responsible for maintaining the support systems including cabinet, battery backup systems, generator, transfer switches, and air conditioners.

UIA will perform regular maintenance on the electronics and support systems including configuration updates, code updates, firmware updates, cleanings (as necessary), refueling, battery replacement, and other tasks needed to keep the City Network in working condition.

Section 2.11 Electronics Replacement. UIA agrees to keep the electronics components of the City Network current with industry standards and competitive options. UIA commits that all electronics components of the City Network are new or like-new condition and meet current standards at the time of installation. All electronics components of the City Network will support 1 Gbps speeds throughout the City Network. The City Network will also be designed so that 10 Gbps service can be available anywhere within the City Network with only a change of electronic interfaces so that the option to upgrade to 10 Gbps service is available anywhere in the Town.

During the term of this Contract, UIA agrees to upgrade or replace at its own expense the electronics components of the City Network as necessary to support the same product availability as is generally available in other UIA member or partner cities.

Section 2.12 Utility Locating. UIA will provide utility locating services directly or via sub-contractor for the City Network through the duration of this Contract.

Section 2.13 Ownership of Improvements. It is agreed and understood that all real and personal property constituting the UIA-Owned Improvements shall be owned by UIA.

ARTICLE III

PAYMENT FOR CONNECTION SERVICES; DISTRIBUTION OF REVENUES

Section 3.1 Determination of Payment/Revenue Distribution.

(a) In consideration for all of the services provided by UIA hereunder, the Town agrees to pay or have paid to UIA or its successor or assigns for each Fiscal Year, if then due and owing, an amount to UIA equal to the UIA Revenue Requirement beginning 2 years after the date of execution of this Contract.

(b) In consideration for the providing of Connection Services by UIA, the Town shall pay or have paid to UIA or its successor or assigns for each Fiscal Year, if then due and owing, all of the Revenues received for such services during said Fiscal Year, to be paid and remitted to UIA or its successor or assigns on a monthly basis in accordance with Section 3.4. Subject to Section 3.2(b) hereof, such Revenues are anticipated to commence when the Town is provided with Connection Services related to the Improvements and when one or more Agreed Upon End Users have been charged for Hookup Leases or Service Fees. The Town or UIA on behalf of the Town shall charge or caused to be charged to all End Users Hookup Leases and Service Fees and shall remit or UIA on behalf of the Town shall collect and remit all Revenues to UIA on a monthly basis and in accordance with Section 5.12 hereof.

(c) Upon receipt of the City Fees, UIA will apply the City Fees toward the payment of the UIA Revenue Requirement.

(d) UIA shall on behalf of the Town, impose and collect fees and charges for the Hook-up Leases and will apply such Hook-up Lease Revenues toward the payment of the UIA Revenue Requirement.

(e) Upon receipt of the Non-residential Fees, UIA will apply 50% of the Non-Residential Fees toward the payment of the UIA Revenue Requirement.

(f) Upon termination of this Contract in accordance with Section 5.16 hereof, all Revenues will become revenues of and belong to UIA.

Section 3.2 Obligation is Absolute.

(a) The Town hereby pledges the Revenues and grants a security interest in and a first irrevocable lien on the Revenues as security for payment of the UIA Revenue Requirement and the Town hereby agrees to apply the Revenues as payment for the UIA Revenue Requirement.

(b) Subject to the provisions of Section 3.4 hereof limiting the sources of payment hereunder, the Town's payment obligations hereunder to UIA for Connection Services and other services hereunder and related to the Improvements pursuant to this Article III shall be irrevocable, absolute and unconditional and shall

not be subject to any reduction, whether by defense, recoupment, counterclaim, set off, termination, or offset or otherwise, and shall not be conditioned upon the construction, performance or non-performance of the Improvements by UIA, the remedy for non-performance being limited to mandamus, specific performance or equitable remedy. Notwithstanding the foregoing, it is not intended that the Town by this Contract assume any obligation or liability as a guarantor, endorser, surety, or otherwise with respect to any obligations incurred by UIA with respect to the Improvements.

Section 3.3 Town Reserve Fund.

(a) The Town agrees that it will place \$82,500.00 in reserve as security (the "Town Reserve Fund") for the Town's obligations to UIA in the event and to the extent there shall be a shortfall in the amounts accounted for in Section 3.1(c)-(e), such that UIA shall not have sufficient moneys from the amounts accounted for in Section 3.1(c)-(e) to pay the UIA Revenue Requirement when due (a "Shortfall") and is unable to pay the UIA Revenue Requirement pursuant to the terms of Section 3.6. The Town hereby pledges and agrees to advance to UIA a Shortfall Payment from the Town Reserve Fund by remitting such Shortfall Payment to UIA in an amount equal to the Shortfall within 30 days of receiving written notice from UIA or the Trustee of a Shortfall. The Town will fund the Reserve Fund within ninety (90) days of the date of execution of this Contract.

(b) The Town Reserve Fund will be held by the Trustee, pursuant to instructions providing for payment to UIA from the Town Reserve Fund consistent with the terms of this Contract.

(c) The Town's obligation to maintain the Town Reserve Fund will expire upon the earlier of (i) 5 years from the date of commencement of the project or (ii) the date that 230 end users are receiving service on the City Network.

(d) Under no circumstances will the Town Reserve Fund be permitted to earn interest at a rate higher than the interest rate paid by UIA for the financing of the Capital Costs.

Section 3.4 Special Limited Obligation. The Town agrees to pay the Revenues due to UIA for Connection Services and other services hereunder related to the Improvements in monthly installments. Subject to Section 3.6 herein, the Town's obligations to make monthly payments pursuant to this Section 3.4 shall constitute an obligation payable solely from Revenues. In no event shall the obligations of the Town hereunder be construed as a general obligation or indebtedness of the Town within the meaning of any constitutional or statutory limitation or provision or payable from ad valorem property taxes of the Town. The Parties acknowledge and agree that such payments shall be made out of the enterprise fund established with respect to the Town's Communications Enterprise. Each monthly installment shall be due and payable by the Town to UIA not later than the fifteenth day of the next succeeding month. A final accounting of all transactions between UIA and the Town in each Fiscal Year shall be

rendered to the Town by UIA on or before the 90th day of the succeeding Fiscal Year. The final accounting shall specify the amount, if any, which the Town must pay to UIA to reconcile total monthly payments with actual amounts due UIA with Revenues indicated by an underpayment or overpayment to be made by the Town or UIA respectively, which amount shall be payable to UIA no later than 30 days after the receipt of the final accounting.

Section 3.5 Default in Payment. If the Revenues are not paid in full on or before the close of business on the fifteenth day of the month in which said Revenues are due, an interest charge will be made at the rate of ten percent (10%) per annum or the maximum rate of interest legally chargeable, whichever is less. If all or a portion of the Revenues remain unpaid subsequent to the fifteenth day of the month in which the Revenues are due, UIA may, upon giving thirty (30) days' advance written notice calculated from the date of receipt of such notice by the Town, discontinue Connection Services and other services hereunder to the Town unless, and may refuse to resume said services to said Town until, the delinquent installment has been paid. From and after the effective date of such notice, UIA may, in its sole discretion, not provide Connection Services or other services hereunder to the Town.

Section 3.6 Use of Sales Tax Revenues and Franchise Tax Revenues.

(a) In the event and to the extent there shall be a Shortfall, and if UIA shall for any reason fail to cure such Shortfall on behalf of the Town, the Town hereby pledges and agrees to advance to UIA a Shortfall Payment of Sales Tax Revenues and Franchise Tax Revenues of the Town by remitting such Shortfall Payment to UIA in an amount equal to the difference between the UIA Revenue Requirement and the amounts accounted for in Section 3.1(c)-(e).

(b) On or prior to each January 1 and July 1 commencing January 1, 2022, UIA shall determine:

(i) the UIA Revenue Requirement due on the next succeeding March 15 or September 15, as applicable, and

(ii) the amount of Revenues UIA reasonably believes will be available for payment of the UIA Revenue Requirement on said March 15 or September 15. In addition, UIA shall inform the Trustee and the Town of any Shortfall and shall, on or prior to each January 15 or July 15 as applicable, submit a request to Town to remit to UIA, Sales Tax Revenues and Franchise Tax Revenues equal to the Shortfall described and calculated in accordance with the provision set forth above. The Town agrees to pay the Shortfall to UIA no later than the next succeeding March 15 or September 15, as applicable.

(c) If for any reason UIA or the Town fails to comply with their obligations under Section 3.6(b) of this Contract, UIA will, at any time during which a Shortfall exists, submit a request to the Town to remit Sales Tax Revenues

and Franchise Tax Revenues equal to the Shortfall described and calculated in accordance with the provision set forth above. The Town agrees to pay the Shortfall to the Trustee no later than the next succeeding March 15 or September 15, as applicable. UIA covenants to take such other action as it lawfully may take to assure that the Town remits to the Trustee from Franchise Tax Revenues and Sales Tax Revenues any Shortfall pursuant to this Contract.

(d) If for any reason UIA or the Town fails to comply with their obligations under Section 3.6(b) of this Contract, the Trustee pursuant to Section _____ of the Supplemental Indenture will, at any time during which a Shortfall exists, submit a request to the Town to remit the Sales Tax Revenues and Franchise Tax Revenues equal to the Shortfall described and calculated in accordance with the provision set forth above. The Town agrees to pay the Shortfall to the Trustee no later than the next succeeding March 15 or September 15, as applicable.

(e) The Town may create or incur additional debt or other obligations secured by a pledge of the Town's sales tax revenues or franchise tax revenues on a parity with the pledge created pursuant to this Section 3.6 so long as the Town's total revenues from sales tax and total revenues from franchise tax revenues during the Fiscal Year immediately preceding the Fiscal Year in which the additional parity debt or obligation is to be issued or incurred, as appropriate, are not less than 150% of the maximum annual debt service in any given Fiscal Year on the sum of (i) the debt service on the additional parity debt or obligation plus (ii) debt service on any debt or other parity obligation previously issued or incurred by or for the benefit of the Town and payable from or secured by franchise tax revenues, as appropriate, and outstanding plus (iii) the debt service on any bonds or other parity obligations issued by UIA and payable from amounts paid or received under this Contract, tested for the period of such additional debt or other parity obligation.

(f) All Sales Tax Revenues and Franchise Tax Revenues paid by the Town to the Trustee or UIA or its designee pursuant to Section 3.3 or Section 3.6 shall constitute a loan by the Town to UIA which shall be paid by UIA at the time and in the manner as provided in the form of a promissory note attached hereto as Exhibit D from future revenues of UIA. The Town shall be entitled to interest on each loan advance from the date said advance is made by the Town to the Trustee or UIA or its designee, at the per annum rate equal to the rate of return at the Utah Public Treasurer's Investment Fund in effect at the time of execution and delivery of the promissory note, unless by agreement of the Town and UIA a lesser interest rate is set forth in the executed promissory note for said loan. The Town acknowledges that the loan obligation incurred by UIA herein shall be repaid only from Revenues generated from the City Network and shall be subordinate and junior to UIA's other payment obligations. Payment obligations represented by a promissory note shall survive termination of this Contract until paid in full or otherwise extinguished.

(g) During the term of this Contract, the Town covenants that it will not, unless directed to do so by the State of Utah or a court of competent jurisdiction, reduce the rate of the tax from which it derives Sales Tax Revenues or Franchise Tax Revenues.

Section 3.7 Replacement of Town Obligations. UIA may, in its sole discretion, release the Town's obligations under Section 3.3, or Section 3.6 if the Town obtains a sufficient alternative guarantee of its ability to pay any Shortfall through contractual agreement with a third-party or third-parties ("Alternative Guarantee"). Any Alternative Guarantee must meet the following conditions before UIA will consider releasing the Town's obligations under Section 3.3 or Section 3.6:

(a) A proposed Alternative Guarantee must satisfy the Town's obligation to pay the UIA Revenue Requirement in full;

(b) A proposed Alternative Guarantee must provide for a reserve fund in an amount equal to the amount provided in Section 3.3; and

(c) Any third-party partner to an Alternative Guarantee must demonstrate at least three years of financial ability to pay the UIA Revenue Requirement in full.

Section 3.8 Succession Proceedings. UIA or its designee shall have the right from time to time to begin and maintain successive proceedings against the Town for the recovery of all Revenues or Shortfalls required to be made under this Contract by the Town and to recover the same upon the liability of the Town herein provided. Nothing herein contained shall be deemed to require UIA to defer commencement of any such proceeding until the end of the term of this Contract.

Section 3.9 Remedies. UIA or its designee may take whatever action at law or in equity may appear necessary or desirable to collect the amounts payable by the Town hereunder, then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the Town under the provisions of this Contract. Such action may include, but is not limited to, suspension or termination of services to the Town for Town purposes. The Town may take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of UIA under the provisions of this Contract.

Section 3.10 No Exclusive Remedy. No right or remedy herein conferred upon or reserved to UIA or its designee or the Town is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter legally existing. The failure of UIA or its designee or the Town to insist at any time upon the strict observance or performance by the other parties to this Contract of any of the provisions of this Contract, or to exercise any right or remedy provided for in this Contract, shall not impair any such right or remedy nor be construed as a waiver or relinquishment thereof for the future. Receipt by UIA or its designee of any payments required to be made under this Contract

with knowledge of the breach of any provisions of this Contract, shall not be deemed a waiver of such breach. In addition to all other remedies provided in this Contract, UIA or its designee or the Town shall be entitled, to the extent permitted by applicable law, to injunctive relief in case of the violation, or attempted or threatened violation, of any of the provisions of this Contract, or to a decree concerning performance of any of the provisions of this Contract, or to any other remedy legally allowed. If any proceeding shall be brought for the enforcement of any right or remedy provided for in this Contract in which it shall be determined that the Town shall have failed and continued to fail to make a payment of any amount due under this Contract at the time of commencement thereof, the Town shall pay UIA or its designee all expenses incurred in connection therewith including, without limitation, reasonable attorneys' fees and expenses. In like manner, if it should become necessary for the Town to bring legal proceedings against UIA or its designee to enforce any right given it hereunder, the Town shall have the right, if it is successful in such proceedings, to the payment by UIA of all expenses incurred in connection therewith including, without limitation, reasonable attorneys' fees, and expenses.

Section 3.11 Right of Designee to UIA to Exercise Remedies. At any time UIA or its designee is entitled to enforce any of the rights or remedies provided for in this Contract, the designee may proceed, either in its own name and as trustee of any express trust or otherwise, to protect and enforce its rights and those of UIA under this Contract, whether or not UIA shall have complied with any of the provisions hereof or proceeded to take any action authorized or permitted under applicable law. Such rights and remedies as are given UIA hereunder shall also extend to its designee and the designee shall be entitled to the benefit of all covenants and agreements in this Contract contained.

Section 3.12 Town not Obligated for UIA Debt. All obligations of UIA are payable solely by UIA and are not a debt or other obligation of the Town; *provided however*, that nothing in this Section 3.12 shall be construed as limiting the Town's obligations under Sections 3.1 through 3.6 of this Contract.

Section 3.13 Billing and Collection by UIA. For purposes of expediency and efficiency, UIA will provide billing and collection services for Connection Services and Hook-up Leases to the End Users on behalf of the Town. Revenues received by UIA from such activities are properly allocable and will be allocated to UIA and to the Town as provided in this Contract.

Section 3.14 Disposition at Termination. After this Contract has expired in accordance with its terms, unless otherwise agreed to by the Parties, all Revenues generated under this Contract shall belong solely to UIA, less payments due to the Town under any Promissory Note or other obligation arising out of this Contract.

Section 3.16 Exclusive Use. UIA will have exclusive use of the City Network for purposes of providing services directly or in partnership with service providers approved by UIA to subscribers of the City Network. Third parties may only utilize the system in partnership with UIA.

Section 3.17 System Capacity.

(a) UIA has determined that it has excess capacity in the UIA Network to provide the Connection Services and that it will make such capacity available to the Town.

(b) UIA agrees to provide a minimum of 20 Gbps of network capacity to the City Fiber Hut(s) upon acceptance of the completion of the City Fiber Hut(s). UIA agrees to maintain at least 30% headroom of unused capacity to the Aggregation Site and will at its own expense monitor and upgrade the capacity to the Aggregation Site of the City Network if it exceeds 70% utilization based on a 95%/5min interval monthly calculation.

Section 3.18 Service Providers. UIA will make the City Network available to all of its contracted service providers under the same terms and conditions as in other cities. Such service providers are not obligated to provide services within the Town.

Section 3.19 Network Operations Center (NOC) Services. UIA agrees to provide monitoring of the City Network on a 24/7 basis from its NOC. This includes device monitoring, outage notifications, configuration of devices, diagnostics, repair dispatch, and other services as generally provided by the NOC.

Section 3.20 Network Engineering Services. UIA will maintain the configurations, code, and design of the City Network to ensure that it meets the needs of the City Network. Additionally, UIA agrees to provide network design services to the Town for the purposes of interconnecting the Town.

Section 3.21 Field Technician Services. Field technician services will be provided by UIA during the term of this Contract. Such services include dispatch and resolution services.

Section 3.22 Town Connections. The Town is entitled to receive services from UIA at the Product Catalog wholesale rates of UIA.

Section 3.23 Customer Service. UIA staffs a customer service call center for sales, information, and other miscellaneous issues. For outages, technical support, and billing issues, subscribers are generally expected to call their contracted service provider. In the event a service provider determines the issue is related to problems with the City Network and not the service provider or in-home equipment, then the service provider may refer the issue to UIA.

Section 3.24 Technical Support. UIA is responsible for providing technical support for the connection up to the demarcation switch in each home or business. Technical support for customer routers, in-home wiring, computers, and in-home Wifi is not service that UIA provides. Such services are generally expected to be handled by the subscriber's contracted service provider based on their terms of service.

Section 3.25 IT Systems. UIA will be responsible for incremental costs for software licensing expenses incurred for managing the City Network including device monitoring, billing software, configuration management, and automated provisioning systems.

Section 3.26 Geographic Information System (GIS). UIA will be responsible for maintaining GIS data for the City Network, including the costs for any software licensing, hardware, and data archival expenses.

ARTICLE IV

APPROVAL AND PUBLICATION REQUIREMENTS

Section 4.1 Submission to Authorized Attorney. This Contract shall constitute an agreement for joint and cooperative action pursuant to the Interlocal Act. In accordance with the requirements of Section 11-13-202.5 of the Interlocal Act, as amended, this Contract shall be submitted for approval to the governing bodies of UIA and the Town and to an authorized attorney for UIA and for the Town who shall approve this Contract if such attorney determines that it is in proper form and compatible with the laws of the State of Utah.

Section 4.2 Publication. In accordance with the requirements of Section 11-13-219 of the Interlocal Act, as amended, the governing body of UIA shall provide for the publication of the resolution adopted by it pursuant to the requirements of Section 11-13-202 of the Interlocal Act, as amended, in the official newspaper or the newspaper published within its boundaries, or if no newspaper is so published, then in a newspaper having general circulation therein.

ARTICLE V

GENERAL PROVISIONS

Section 5.1 Acquisition and Construction of the Improvements. UIA represents that it will acquire or cause to be acquired all permits, licenses, rights and privileges, structures, equipment, and facilities with respect to the acquisition and construction of the Improvements necessary for the performance by UIA of this Contract. UIA shall maintain and defend such permits, licenses, and rights and privileges and shall not voluntarily permit any change therein that would result in impairment of the performance by UIA of its obligation under this Contract.

Section 5.2 Risk of Loss. Each Party is solely responsible for the risk of loss of, or damage to, equipment of that Party (regardless of where located), unless the loss or damage results from the negligence or fault of the other Party.

Section 5.3 Several Obligations. Except where specifically stated in this Contract to be otherwise, the duties, obligations, and liabilities of the Parties are intended to be several and not joint or collective. Nothing contained in this Contract shall ever be

construed to create an association, trust, partnership, or joint venture or impose a trust or partnership duty, obligation, or liability on or with regard to either Party. Each Party shall be individually and severally liable for its own obligations under this Contract and shall not be liable for any obligation of the other.

Section 5.4 Liability Dedication. Nothing in this Contract shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a party to this Contract.

Section 5.5 Books and Records. UIA agrees that it shall maintain separate books and records relating to the Improvements and that proper and equitable allocations of revenues and expenses will be made with respect to the operations of the Improvements. The Town shall receive from UIA a monthly statement on the accounting and disposition of Hook-up Leases and City Fees. Also, UIA shall submit to the Town such supporting data with respect to all annual budgets and yearly accounting reconciliations as are reasonably necessary to enable the Town to effect proper accounting therefor. All bank records, books of account and accounting records of UIA relating to this Contract shall be available for inspection and utilization by a duly authorized officer or designee of the Town at all reasonable times. UIA shall cause such books of account of the Improvements to be audited annually by independent public accountants experienced in utility accounting. A copy of each such annual audit, including any recommendations of the accountants with respect thereto, shall be promptly made available by UIA to the Town.

Section 5.6 Relationship to Other Instruments. It is recognized that UIA must comply with all licenses, permits and regulatory approvals necessary for the ownership, acquisition, construction and operation of the Improvements, and it is, therefore, agreed that this Contract is made subject to the terms and provisions of such licenses, permits and regulatory approvals, except that the Town shall not be bound by any term or provision of any license, permit, or regulatory approval, which may contradict or vary the terms hereof unless it expressly consents in writing to be so bound. The Town agrees that it will not revise or amend its fees charged to End Users under its Communications Enterprise in any manner that would adversely affect the priority of or the security for the payments to be made thereunder to UIA without the mutual consent of the Parties.

Section 5.7 Liabilities. The Town, its officers, designees, and employees, or any of them, shall not be liable for any claims, demands, costs, losses, causes of action, damages or liability of whatsoever kind or nature arising out of or resulting from the ownership, acquisition, construction and operation by UIA of the Improvements. UIA, its officers, designees, and employees, or any of them, shall not be liable for any claims, demands, costs, losses, causes of action, damages or liability of whatsoever kind or nature arising out of or resulting from the performance by the Town under this Contract.

Section 5.8 Assignment. Except for security purposes in connection with any obligations incurred by UIA, neither this Contract nor any part hereof shall be assigned by any Party without prior written consent of the other.

Section 5.9 Furnishing Service to Others. UIA, by entering into this Contract, does not hold itself out to provide the Improvements or similar service to any other person or entity.

Section 5.10 Uncontrollable Forces. No Party shall be considered to be in default in respect to any obligation hereunder, other than under Article III, if prevented from fulfilling such obligation by reason of an Uncontrollable Force. If a Party is rendered unable to fulfill any obligation by reason of an Uncontrollable Force such Party shall exercise due diligence to remove such inability with all reasonable dispatch and shall keep the other Parties fully informed of changes and conditions as far in advance as possible.

Section 5.11 Communications Enterprise. The Town will operate and maintain, or cause to be operated and maintained, its Communications Enterprise in good operating order and will fix, charge, and collect rates, fees, and charges in accordance with Section 5.12 herein.

Section 5.12 Imposition and Collection of Fees. The Town has previously established or will establish a Communications Enterprise and hereby represents that it charges or causes to be charged on its behalf all End Users within the Town through its Communications Enterprise monthly fees for each connection to the City Network in consideration for the Connection Services and other communications services provided by the Town. The Town shall establish or cause to be established such enforcement procedures as may be necessary to collect such fees. Said fees, when collected, shall be used by the Town to pay its obligations under this Contract.

Section 5.13 Cable Television Services and Public Telecommunications Services. The Parties hereto acknowledge and represent that neither party, by entering into this Contract, shall provide or be required to provide Cable Television Services or Public Telecommunications Services as defined in the Telecommunications Act, nor is either party capable of providing said services. Furthermore, the Parties hereby acknowledge and represent that to the best of their knowledge, the Town is paying for the full cost of providing the Connection Services or other services received by it pursuant to this Contract.

Section 5.14 Entire Agreement. This Contract constitutes the entire agreement among the Parties with respect to the subject matter hereof. No change, variation, termination, or attempted waiver of any of the provisions of this Contract shall be binding on the Parties unless executed in writing by the other Party. This Contract shall not be modified, supplemented, or otherwise affected by course of dealing.

Section 5.15 Amendments. This Contract shall not be amended, modified, or otherwise altered in any manner without the consent of the parties hereto, which consent shall not be unreasonably withheld; provided however, that Section 3.3, Section 3.6, Section 5.16, Section 5.18, and Section 5.19 hereof shall not be amended until such time that any obligations issued by UIA and payable from amounts paid or received hereunder shall have been retired in accordance with their terms.

Section 5.16 Effective Date and Original Term; Termination. This Contract shall be effective as of the date hereof and shall continue in effect until October 15, 2046 (the “Original Term”), or such later time when any obligations issued by UIA and payable from amounts hereunder shall have been retired in accordance with their terms.

Section 5.17 Notice. Any notice, demand, or request provided for in this Contract shall be in writing and shall be deemed properly served, given, or made if delivered in person or sent by registered or certified mail, postage prepaid, to the persons specified below:

UIA: UTOPIA
5858 South 900 East
Murray, UT 84121
Attn: Chief Executive Officer

Hideout

The Parties may, at any time, by notice to the other designate different or additional persons or different addresses for the giving of notice hereunder.

Section 5.18 Third-Party Beneficiaries. The terms and provisions of this Contract shall be binding upon and inure to the benefit of the Parties hereto, and their respective successors and assigns, including the Trustee, and is made for their benefit. Further, the Trustee is an intended third-party beneficiary for purposes of Section 3.3. and Section 3.6 hereof, including without limitation its rights to Sales Tax Revenues, Franchise Tax Revenues, and the Town Reserve Fund in the event of any Shortfall and to pursue all remedies related thereto. No other person shall have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third-party beneficiary or otherwise.

Section 5.19 Governing Law and Dispute Resolution. This Contract shall be interpreted, governed by, and construed under the laws of the State of Utah. If a dispute arises from or relates to this Contract or the breach thereof, and if the dispute cannot be settled through direct discussions, the Parties agree to endeavor first to settle the dispute by mediation before resorting to arbitration. The Parties further agree that any unresolved controversy or claim arising out of or relating to this Contract, or breach thereof, shall be settled by arbitration administered in accordance with the American Arbitration Association’s Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Claims shall be heard by a panel of three arbitrators. Within 15 days after the commencement of arbitration, each Party shall select one person to act as arbitrator and the two selected shall select a third arbitrator within ten days of their appointment. If the arbitrators selected by the Parties are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected by the American Arbitration Association. The place of arbitration shall be Salt Lake City, Utah. The arbitration shall be governed by the laws of the State of Utah. Hearings will take place pursuant to the standard procedures of the Commercial Arbitration Rules that contemplate in person hearings. The arbitrators will have no authority to award punitive or other damages not measured by the prevailing Party's actual damages. The arbitrator(s) shall not award consequential damages in any arbitration initiated under this section. The arbitrators

may determine how the costs and expenses of the arbitration shall be allocated between the Parties, but they shall not award attorneys' fees. The award of the arbitrators shall be accompanied by a reasoned opinion.

Section 5.20 Execution in Counterparts. This Contract may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 5.21 Severability. If any provision of this Contract shall be held or be deemed to be or shall, in fact, be illegal, inoperative, or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative, or unenforceable to any extent whatsoever.

[Signature pages follow]

DRAFT

IN WITNESS WHEREOF, the Parties hereto have executed this contract the day and year herein first above written.

(SEAL) UTAH INFRASTRUCTURE AGENCY

By: _____
Chair

ATTEST AND COUNTERSIGN:

By: _____
Secretary

(SEAL) HIDEOUT, UTAH

By: _____
Mayor

ATTEST AND COUNTERSIGN:

By: _____
Town Clerk

Pursuant to Section 11-13-202.5 of the Utah Code Annotated 1953, as amended, the foregoing Contract is hereby approved.

Attorney for Utah Infrastructure Agency

Attorney for Hideout, Utah

DRAFT

EXHIBIT A

CONNECTION SERVICES

Strategic Partner Management

Recruit and manage strategic partnerships, which will include but not be limited to Business and Residential Service Providers and Services Providers. Attract new technologies to the network to facilitate new service offerings on the network and leverage the Town's existing network and its communities.

UIA will negotiate on behalf of the Town the contract and contract amendments, enforce contracts with Providers and ensure Service Level Agreements are met according to business and contractual obligations.

Product Management

Recommend, develop wholesale pricing model along with the Town and strategic partners. This will include new wholesale pricing for newly developed products brought by UIA and its Strategic Partners.

Present developed model and any changes the Town and strategic partners for rollout on the Network. Maintain, modifying and bring to end-of-life wholesale products on the network.

Planning, Design and Implementation

UIA will provide planning, design and implementation of the Town's network as requested. A full outside plant design, network design and operational impact review will be provided along with a project implementation plan timeline, along with associated budget for the plan. The plan will include:

- Creation/Import of Town records into GIS system
- Estimated cost for the outside plant build requested area
- Estimated cost for the network engineering build
- Project Engineer to interact and answer questions about the proposals and presentations
- Support for submittal of change orders for any changes on the design plan
- Supporting production map(s) and documentation for proposed build areas
- Extract of information in supported format provided by UIA

Marketing/Advocate Awareness Program

UIA will instigate and oversee any marketing and communications efforts that are necessary to the network's success. This could include campaigns within Town governments, residential markets, multi-dwelling unit markets, business markets, or with community and national thought leaders, policy makers and other audiences. In particular, UIA will seek opportunities to develop and educate about future quality-of-life, public safety, and economic development opportunities on the network, working to build the network's reputation as necessary public infrastructure.

UIA will recruit and manage personnel and/or contractors to assist in promoting the network and growing the subscriber base. The Town may assist with the promotion activities as long as it receives the prior written approval from UIA to do so.

GIS Services

Upon implementation of new network designs UIA will create, manage and maintain a Geo-spatial database to track the build of the Town's network. UIA will provide a conversion method to import engineering documentation (CAD Conversion) and modify the geo-spatial database to include AS-Built updates as reported.

Continued support will be offered by taking GPS data collection for key OSP elements, recording that information into the database, providing and tracking fiber assignments made for provisioning services and when requested, provide an extract of the database for the Cities in an available format

Outside Plant Services

During construction UIA will appoint a Project Manager to oversee all approved construction for the specific project. They will manage the RFP process using UIA standard policies to award construction bids and select qualified contractors. They will provide management over employees and contractors during the construction process by assigned construction work packages and ensuring industry best practices and consistent engineering specifications are met.

The Project Manager will ensure:

- Budget tracking and reporting is available for the Town
- Obtain necessary field permits and obligations
- Issues are tracked and brought to resolution for the Town or its residents
- RMA process is followed
- Inventory is managed and accounted for
- Maintaining necessary levels of inventory to complete work packages
- Ensure construction work through Quality Assurance procedures

Field Services

UIA will provide field crews and/or contractors to be deployed in the field to manage the physical plant which is constructed for the Town. UIA will maintain physical huts and cabinets on the network. During the event of an issue the Field Services Group will respond to any actual damage to physical plant and manage and execute the repair needed for restoring the physical plant as deemed necessary by UIA.

Network Engineering Services

UIA will provide network engineers and/or contractors to evaluate, recommend the needed electronics to provide wholesale services on the network. These Network engineers will:

- Test and certify network electronics for deployment
- Create, maintain physical and logical topology of the Network
- Configure and install the necessary devices in the network as needed
- Resolve any issues with these devices and replace parts or device as needed
- RMA through standard processes
- Research and Development of new technologies along with strategic partners
- Capacity planning of the network

Operations Management

UIA will provide management oversight of operational support of the network. This will include:

Integration: Integration of strategic partners onto the network, establishing standard interfaces and operational methods and procedures with these partners. UIA will assist strategic partners in understanding integration points of products and services on the network.

Operational Methods and Procedures: Develop supporting methods and procedures to coordinate delivery of services to customers.

Network Operations Center (NOC): 24x7 NOC to monitor health of devices and services on the network. Respond to Strategic Partner requests, manage to resolution reported issues on the network.

Network Repair and Maintenance: Detect, record (through a UIA a trouble ticketing solution) and respond to network maintenance and issues. Record and dispatch appropriate teams into the field for issue resolution.

Order Management System: Provide systems to allow the ordering and activation of wholesale services on the network, track customer acquisition and produce invoices, as needed, of wholesale services for cities so that they may invoice residents and UIA may invoice Service Providers.

Reporting: Provide reporting of customers on the network.

Invoicing: Provide information to the Town to allow the invoicing of applicable wholesale services on the network, if the Town handles its own invoicing.

DRAFT

EXHIBIT B

DESCRIPTION OF IMPROVEMENTS

Physical Improvements

Fiber Optic Communication lines will be deployed throughout the Town. These lines will be constructed both overhead and underground in each of the Town's "rights of way" following all local, state and federal regulations using industry best practices to deploy the most efficient and cost-effective infrastructure.

Elements of the infrastructure include 3 separate categories: Backbone or middle mile construction, access level or last mile construction and drop level construction.

Backbone or Middle Mile Construction

Consists of both overhead and underground paths, communication shelters to house distribution switches, fiber optic patch panels, uninterruptable power supplies (UPS) and generators. The communication shelters will serve as distribution points within the Town and will be connected diversely with ring architecture. Other elements include fiber optic cable, conduit, strand, pole mounting hardware, vaults, splice closures and all other items necessary to construct and operate the network. The testing and certification of the improvements will be in accordance with national industry standards and UTOPIA's Engineering Standards document.

Access Level or Last Mile Construction

Consists of both overhead and underground paths to every subscribed address within the build area. Elements of this type of build include fiber optic cable, conduit, strand, pole mounting hardware, vaults, splice closures and all other items necessary to construct and operate the network. This infrastructure will facilitate and serve as network access points for subscribers to UIA.

Drop Level Construction

Consist of drop fiber and/or conduit being placed from a network access point to the demarcation point within the subscriber's premise where a network interface device will be placed. Elements of this type of build include three quarter inch drop conduit, drop fiber, aerial attachment hardware, network interface device (NJD), UPS, fiber pigtail, optical transceiver/receiver, power cord and all other items necessary to construct and operate the network. In some instances, UIA will also be responsible for installing cat5 cable within the homes to provide a connection for the services ordered.

EXHIBIT C

MAP OF MAINLINE SYSTEM

EXHIBIT D

FORM OF PROMISSORY NOTE

\$ _____

(date)

FOR VALUE RECEIVED, the undersigned, Utah Infrastructure Agency (“Borrower”), promises to pay to the order of Hideout, Utah (“Lender”), the principal sum of _____ (\$ _____) together with all subsequent loan advances made, expenditures authorized and additional payments provided for in this Promissory Note and pursuant to the Fiber Communications Service Contract dated as of [____], 20__, between Borrower and Lender (the “Contract”).

1. Definitions. As used in this Note, the following terms shall have the meanings set forth below:

“Effective Date” means the date the terms of this Note, including the accruing rate of interest and the payment obligations described herein, become effective, which date shall be the date the proceeds of the Loan are disbursed to or for the benefit of Borrower.

“Event of Default” means failure by Borrower to pay timely any installment of principal or interest on this Note.

“Loan” means the loan advanced by Lender to Borrower under the terms and upon the conditions contained in the Contract in the principal amount of _____ (\$ _____).

“Maturity Date” means _____.

“Month” means a calendar month.

“Note” means this Promissory Note and any extensions, renewals or modifications thereof.

“Payment Date” means the _____ day of each Month on which Borrower shall pay to Lender accrued interest, or principal and accrued interest, on the outstanding principal of this Note, as required by the terms of this Note.

“Principal Indebtedness” means at any time and from time to time during the term of this Note all advances, disbursements, expenditures, and payments made by Lender after the date of this Note pursuant to the terms of this Note or the Contract.

2. Security. Security for this Note and repayment by Borrower will be limited exclusively to the Revenues, as defined in the Contract, that are generated under the Contract. Borrower’s obligation to repay the Note is contingent upon the availability of Revenues generated under the Contract in excess of the UIA Revenue Requirement, as

defined in the Contract. Borrower is not obligated to utilize any other funds to repay this Note.

3. Interest Accruals. The unpaid principal balance will bear interest at the rate set forth in Section 3.6(f) of the Contract.

4. Interest Calculation Basis. All interest accruing under this Note shall be calculated on the basis of a 360-day year for the actual number of days elapsed.

5. Payments of Principal and Accrued Interest.

(a) Beginning on _____, Borrower shall make monthly installment payments to Lender of principal and accrued interest on the unpaid Principal Indebtedness in the amount of _____ (\$ _____) each.

(b) The entire unpaid Principal Indebtedness, together with all accrued and unpaid interest thereon, if not sooner paid, shall be due and payable in full on the Maturity Date.

6. Place of Payment. All payments under this Note shall be made in lawful money of the United States of America at Lender's offices at _____ Utah, or at such other place as Lender may from time to time designate. All payments on this Note shall, at the option of Lender, be applied first to the payment of accrued interest and after all such interest has been paid, any remainder shall be applied toward the reduction of the Principal Indebtedness.

7. Default Rate of Interest. During any period of time which an Event of Default has occurred and is continuing, interest shall accrue against the outstanding Principal Indebtedness evidenced hereby at a rate equal to the otherwise effective rate of interest under this Note plus five percent (5.0%) per annum, calculated on the basis of a 360-day year for the actual number of days elapsed.

8. Prepayment. Borrower may prepay all or a portion of the amount owed earlier than it is due.

9. Late Fee Charges. If any payment required by this Note not received by Lender within ten (10) days after such payment is due, a late fee charge equal to five percent (5.0%) of such late payment shall be due and payable.

10. Incorporation of Contract. The terms, conditions, covenants, provisions, stipulations and agreements of the Contract are hereby made a part of this Note by reference to such document in the same manner and with the same effect as if the Contract were fully set forth herein. Borrower hereby covenants and promises to abide by and comply with each and every covenant and condition set forth in this Note and the Contract.

11. Application of Payments. All payments on this Note shall, at the option of Lender, be applied first to the payment of accrued interest and after all such interest has been paid, any remainder shall be applied toward repayment of any additional advances

Lender has made hereunder which have not already been added to the Principal Indebtedness then outstanding, and the balance, if any, toward the reduction of the Principal Indebtedness.

12. Waivers, Substitution of Security. Borrower waives presentment for payment, notice of dishonor and protest, and consents to any extension of time with respect to any payment due under this Note, to any substitution or release of collateral, and to the addition or release of any party. No waiver of any payment under this Note shall operate as a waiver of any other payment. No delay or failure of Lender in the exercise of any right or remedy provided for under this Note shall be deemed a waiver of such right by Lender, and no exercise of any right or remedy shall be deemed a waiver of any other right or remedy which Lender may have.

13. Governing Law. This Note is to be construed in accordance with the laws of the State of Utah, without giving effect to principles of conflicts of laws.

14. General. Time is of the essence hereof. Upon the occurrence and continuance of an Event of Default, Lender shall have, in addition to all rights and remedies available to Lender at law or in equity, all rights and remedies allowed under Utah law.

DATED effective as of the date first above written.

[Signatures appear on following pages.]

BORROWER:

UTAH INFRASTRUCTURE AGENCY

By: _____
Chair

LENDER:

HIDEOUT, UTAH

By: _____
Mayor

(SEAL)

ATTEST AND COUNTERSIGN:

By: _____
Town Clerk

DRAFT