



**NOTICE OF HIDEOUT, UTAH
TOWN COUNCIL REGULAR MEETING
AGENDA
February 12, 2026**

PUBLIC NOTICE IS HEREBY GIVEN that the Town Council of Hideout, Utah will hold its regularly scheduled meeting at approximately 5:00 PM, or soon thereafter, on Thursday, February 12, 2026 in the Town of Hideout Council Work Room located at 10860 N. Hideout Trail, Hideout, Utah for the purposes and at the times described below.

The public may join remotely, attend in-person, or view the open portions of this meeting through live broadcast by connecting to: <https://www.youtube.com/channel/UCKdWnJad-WwvcAK75QjRb1w/>.

Interested parties may join via Zoom:

Meeting URL: <https://zoom.us/j/4356594739>

To join by telephone dial: US: +1 408 638 0986

Meeting ID: 435 659 4739

5:00 PM Regular Meeting

- I. Welcome and Call to Order
- II. Roll Call
- III. Closed Executive Session to discuss pending or reasonably imminent litigation, the character and professional competence or physical or mental health of an individual; deployment of security personnel, devices or systems, the sale or acquisition of real property; and/or another permitted purpose under UCA§52-2-205. *

6:00 PM

- III. Call to Order
- IV. Pledge of Allegiance
- V. Public Input
Floor open for any attendee to speak on items not listed on the agenda. (Three (3) minutes per person).
- VI. Agenda Items
 - 1. Appointment and consideration by Council for advice and consent of two (2) Planning Commissioners - JD Cronin and Dr. Steve Powell (5 Min.)
 - 2. Consideration and Possible Appointment of Mayor Pro Tempore – (5 Min.)
 - 3. [Land Use Training - Presented by Jordan Culimore, Lead Attorney/Office of the Property Rights Ombudsman](#) (45 Min.)
 - 4. Utility Rates Study - Presented by Fred Philpot - LRB (10 Min.)
 - 5. Consideration and possible approval of adopting Resolution 2026-R-XX amending the Hideout Fee and Rate Schedule – Presented by Jan McCosh (5 Min.)
 - 6. Open and Public Meetings Training (OPMA) - Presented by Polly McLean (10 Min.)
 - 7. Appointment and approval consideration by Council for advice and consent of new Legal Counsel as City Attorney — Presented by Mayor Severini (10 Min.)

8. [Consideration and Possible Adoption of Ordinance 2025-O-XX, Amending Hideout Municipal Code 5.04.075 to Align Construction Hours with Section 10.04.32 - Presented by Council Member Gunn \(15 Min.\)](#)
9. [Discussion and Possible Approval of Committee Appointments of Mayor and Councilmembers – Presented by Mayor Severini \(10 Min.\)](#)
10. [Town Council Retreat Overview, Feb. 10, 2025](#) – Presented by Mayor Severini (5 Min.)
11. Consideration and Possible Authorization of the Mayor to enter into a franchise agreement with UTOPIA – Presented by Nicole Cottle, UTOPIA, and Polly McLean (10 Mins)

VII. Consent Agenda (5 Min.)

1. Approval of the 01/29/2026 Town Council Special Meeting Minutes DRAFT

VIII. Follow up of Items from Approved Minutes

IX. Meeting Adjournment

I, Maria Devereux, the Recorder for the Town of Hideout, UT, do hereby certify that the above February 12, 2026 Hideout Town Council Meeting Notice & Agenda was posted at the following locations: 1) Hideout Town Hall, 2) Town website www.hideoututah.gov and 3) the Utah Public Notice Website at www.utah.gov/pmn.

Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Mayor or City Recorder at 435-659-4739 at least 24 hours prior to the meeting.

Posted 02/11/2026

File Attachments for Item:

4. Utility Rates Study - Presented by Fred Philpot, LRB (10 Min.)

MEMORANDUM
TOWN OF HIDEOUT UTILITY RATE STUDY

To: Jan McCosh, Town Administrator
From: Fred Philpot, LRB Public Finance Advisors
Date: February 10, 2026
RE: Town of Hideout Water Fund Allocation and Utility Rate Adjustments

LRB Public Finance Advisors was retained by the Town of Hideout to perform a comprehensive financial sustainability analysis for the Town's water, sewer, and stormwater utilities. The primary goals of this analysis were to proportionately allocate cost to each enterprise fund, justify rates that the Town charges to residents for each utility, and determine the appropriate "standby" rate that is charged to platted properties for reserved capacity in the three systems.

The Town currently uses a single "Water Fund" to account for the revenues and expenses of its water, sewer, and stormwater utilities. Isolating the revenues and expenses attributable to each individual utility is necessary to defensibly establish separate rates. Accordingly, LRB assisted the Town in developing a process to allocate the combined revenues and expenses into separate utility funds.

In what follows, LRB will first outline its guiding principles for determining cost allocation. Second, LRB will present its recommendation for the process of separating the current Water Fund into separate funds for each of the Town's utilities.

Finally, recommended adjustments to Hideout's four utility rates (standby, water, sewer, and stormwater) will be provided, along with an explanation of the methodology and assumptions behind the recommendations.

GUIDING PRINCIPLES

The following principles guided the allocation of cost and determination of rates in this analysis.

1. Standby rates were evaluated based on a fixed-cost recovery charge for "system readiness." LRB evaluated the full utility revenue requirement, then identified each expense line item that is considered fixed and tied to system availability/readiness. Examples of these costs include:
 - a. Fixed O&M (labor, maintenance, billing/admin, etc.)
 - b. Debt service
 - c. Capital-related fixed costs and depreciation
 - d. Capacity-reservation costs (e.g., water rights lease/reservation fees)
2. Standby rates should not recover costs that truly vary with usage (chemicals, power that scales with pumping volume, etc.).
3. The allocation of cost should be based on a transparent allocator as discussed below.
4. Once costs have been allocated, each utility is evaluated to ensure appropriate rates are established to maintain system goals.

RECOMMENDED ALLOCATION METHODOLOGY

LRB worked with the Town to develop several different allocation methodologies, which apply to one or more revenue or expense line items from the Town's Water Fund. Revenues or expenses from a given line item were proportionately assigned to the Town's standby, water, sewer, and/or stormwater services (each of which is hereafter referred to as a "utility fund") based on the distribution of the associated allocation methodology. Each methodology is briefly described below. It is important to note that not all allocation methodologies were used to determine the final allocated costs or rate recommendations.

- **Direct:** 100% of the revenue or expense will be attributed directly to the applicable utility fund.
- **Rates:** Revenues or expenses are allocated based on the share that each current monthly fee comprises of the total monthly bill to a resident.¹
- **CO vs. Standby:** Revenues or expenses are split between standby and **one** of the other utility funds. The allocation percentages are based on the proportions of total platted Town lots that have been issued certificates of occupancy (COs) versus those that have not.²
- **Acre Feet Utilized vs. Available:** Under this methodology, revenues or expenses are split between standby and **one** of the other utility funds based on how much of the 150-acre feet of water purchased from Jordanelle Special Service District (JSSD) is utilized by occupied lots versus how much is reserved for currently unoccupied (standby) lots. As of FY25, data on usage of JSSD water shows 142 (94.7%) acre feet allocated to occupied lots versus 8 (5.3%) acre feet to standby lots.
- **Proportional:** This allocation method was specifically designed to closely match the percentages of the "Rates" allocation methodology but without being tied to the rate variable that is being manipulated as part of this study. The "Proportional" percentages are weighted averages of three individual percentage distributions—one based on occupied versus unoccupied platted lots, the second based on discretionary customer usage of utility systems, and the third based on original value of each utility system. See the table below for full details.

TABLE 1: "PROPORTIONAL" ALLOCATION METHODOLOGY

UTILITY FUND	NUMBER OF ASSOCIATED LOTS	FIXED DISTRIBUTION	ANNUAL USAGE (THOUSANDS OF GALLONS) ¹	PRODUCTION DISTRIBUTION	ORIGINAL SYSTEM VALUE	SYSTEM DISTRIBUTION ²	FINAL "PROPORTIONATE" DISTRIBUTION
Standby	830	25.5%	-	0.0%		25.5%	10.2%
Water	807	24.8%	46,539	100.0%	\$2,468,801	28.3%	71.0%
Storm	807	24.8%	-	0.0%	\$1,574,560	18.0%	7.9%
Sewer	807	24.8%	-	0.0%	\$2,464,195	28.2%	10.9%
Weight		10%		60%		30%	

¹ Although the Town's sewer customers certainly contribute wastewater to the sewage system, the Town's Public Works manager has indicated that there is no reliable way to accurately estimate sewer flows. Hence, we are only associating discretionary usage with the Town's water system.

² Here we assume that the standby "system" is a portion of each of the three physical systems. That portion is precisely equal to standby's percentage share of the fixed distribution.

¹ The Town currently charges monthly fees of \$94.90 for water (excluding usage), \$28.60 for sewer, and \$6.00 for stormwater. Standby customers are billed \$262.00 annually (this annual figure was divided by 12 for purposes of developing the "Rates" allocation percentages).

² Throughout the entire duration of FY25, the Town had an average of 807 (49.3%) platted lots with certificates of occupancy and 830 (50.7%) platted lots without certificates of occupancy.

- **Asset:** Revenues or expenses are allocated to the water, sewer, and stormwater utility funds based on the proportion of original system value that each physical system contributes to the total original value. Notably, the standby utility fund receives no consideration under this allocation methodology.
- **System:** The percentages for this allocation methodology are precisely those shown in the “System Distribution” column of Table 1. Unlike the “Asset” allocation methodology, the standby utility fund is included and is assigned an allocation percentage based on the description provided in footnote 2 of Table 1.

Table 2 shows each revenue and expense line item contained in the Town’s Water Fund. Next to each line item is the recommended allocation methodology that was determined based on discussions with the Town and the Guiding Principles of this analysis.

TABLE 2: RECOMMENDED ALLOCATION METHODOLOGY FOR EACH “WATER FUND” LINE ITEM

REVENUE/EXPENSE CATEGORY	REVENUE/EXPENSE ITEM	FINAL RECOMMENDED ALLOCATION METHODOLOGY
Operating Income	5141 Standby Water/Infrastructure Maintenance	Direct (Standby)
Operating Income	5140 Water Service - billing to residents	Direct (Water)
Operating Income	5145 Storm Water Ser. - billing to residents	Direct (Storm)
Operating Income	5150 Sewer Service - billing to residents	Direct (Sewer)
Operating Income	5315 Water Transfer Fees	Direct (Water)
Operating Income	5143 Meter Rental	Direct (Water)
Operating Income	5410 Late Penalties & Fees	Direct (Standby)
Operating Income	5110 Interest	Proportional
Operating Income	5490 Other Operating Income	Proportional
Operating Income	5312 Sewer Connection	Direct (Sewer)
Operating Income	5310 Water meter Connection	Direct (Water)
Expenses – Salaries, Benefits, and Admin.	6355 Benefits	Proportional
Expenses – Salaries, Benefits, and Admin.	6350 Salaries & Wages	Proportional
Expenses – Salaries, Benefits, and Admin.	Leases	Proportional
Expenses – Salaries, Benefits, and Admin.	Administration	Proportional
Expenses – PW Department	6210 Meters	Direct (Water)
Expenses – PW Department	6006 Consulting Services – PW	Proportional
Expenses – PW Department	6205 Material and Supplies	Asset
Expenses – PW Department	6305 Repairs & Maintenance – Sewer	CO vs. Standby
Expenses – PW Department	6315 Repairs & Maintenance - Storm	CO vs. Standby
Expenses – PW Department	6310 Repairs & Maintenance – Water	CO vs. Standby
Expenses – General Enterprise	6140 Engineering - Ongoing and projects	Proportional
Expenses – General Enterprise	6405 JSSD - Sewer charges to town	Direct (Sewer)
Expenses – General Enterprise	6410 JSSD - Water charges to town	Direct (Water)
Expenses – General Enterprise	6412 Water Reservation	Direct (Standby)
Professional Expense	6150 Legal	Proportional
Professional Expense	6005 Accounting and Audit	Proportional
Bad Debt and Depreciation Expense	5070 Bad Debt Expense	Direct (Standby)

Bad Debt and Depreciation Expense	5080 Interest expense – Bond	Proportional
Bad Debt and Depreciation Expense	Depreciation	System

It is important to note that actual future capital costs have not been evaluated at this stage. Instead, this analysis includes depreciation as an estimate of future capital needs. The Town is in the process of updating its master plans for each utility. LRB recommends that the Town update the financial sustainability models following the completion of the master plans and the establishment of independent enterprise funds for each utility.

RECOMMENDED RATE ADJUSTMENTS

LRB applied the final recommended allocation methodologies listed in Table 2 to Hideout’s FY25 actual “Water Fund” revenues and expenses. LRB assumed that the aggregate revenue-to-expense ratio of the FY25 actuals was representative of a typical fiscal year. One adjustment was made to the FY25 actuals, however, to account for a significantly increased sewer bill that JSSD began charging to the Town beginning in January 2026. Starting then, the monthly bill per sewer connection increased to \$31.21.

With roughly 828 sewer connections in the Town (calculated based on reported FY25 Town sewer billing revenues), annual JSSD sewer charges for FY25 would have been approximately \$310K, rather than the \$52,503 actually incurred. Substituting the \$310K amount ensures that the resulting recommended rates account for the one substantial exception to the assumption that FY25 revenue and expense proportions will remain relatively stable in the near term.

Allocated revenues and expenses were then aggregated for each separate utility fund to establish respective fund surpluses or deficits. Except for the water fund, all newly established individual utility funds had net fund deficits. In fact, the aggregation of *total* revenues and expenses resulted in a net deficit across all utilities of **(\$44,294)**, indicating the need for the Town to charge residents more per month for all utilities combined than they are currently charging.

In setting recommended rates, LRB determined with the Town that any rate increases should not only fully cover associated fund deficits, but that the increases should also ensure a surplus in each utility fund equal to 10 percent of that fund’s total allocated expenses. **Table 3** below shows—for each newly established utility fund—the total revenues, total expenses, and the fund deficits/surpluses both with and without the 10% surplus target.

TABLE 3: SURPLUSES (DEFICITS) OF INDIVIDUAL UTILITY FUNDS

	STANDBY	WATER	STORM	SEWER	TOTAL
Total Revenues	\$180,486	\$1,391,224	\$53,477	\$333,688	\$1,958,876
Less Total Expenses	\$252,749	\$1,116,164	\$125,801	\$508,455	\$2,003,169
Total Surplus (Deficit)	(\$72,263)	\$275,060	(\$72,323)	(\$174,767)	(\$44,294)
Less Surplus Contribution (10% of total expenses)	\$25,275	\$111,616	\$12,580	\$50,845	\$200,317
Combined Surplus (Deficit) (accounting for surplus target)	(\$97,538)	\$163,444	(\$84,903)	(\$225,613)	(\$244,610)

With combined surpluses and deficits calculated for each utility fund, the final information to determine is how many units (standby lots, billable meters, and residential or commercial units) were assessed the individual utility fees in FY25. This was done by dividing the total billed revenues by the current monthly rate per billed unit, as illustrated in **Table 4** below.

TABLE 4: ESTIMATED FY25 BILLABLE UNITS FOR EACH UTILITY SERVICE

UTILITY SERVICE	BILLABLE UNIT	FY25 TOWN BILLING REVENUES	CURRENT MONTHLY RATE PER BILLED UNIT	ESTIMATED FY25 BILLABLE UNITS
Standby	Unoccupied Platted Lot	\$171,585	\$21.83*	655
Water ¹	Billable Metered Connections	\$1,247,199	\$94.90	863
Storm	Billable Meter	\$49,908	\$6.00	693
Sewer	Residential or Commercial Unit	\$284,256	\$28.60	828

* The Town assesses its standby fee to applicable lots on a yearly—not monthly—basis. However, the annual fee of \$262.00 was divided by 12 for the purpose of this analysis.

¹ Unlike the other utility services, the number of billable units for water was not determined by simply dividing the corresponding billing revenues by the current monthly rate. Because of the complication with water customers paying both a \$94.90 base rate **and** variable usage rates, the average number of FY25 billable metered connections was obtained directly from Hideout's Billing Manager. The only difference between "billable metered connections" (the billable unit for the water utility) and "billable meters" (the billable unit for the stormwater utility) is that the former counts each of the 185 units in the Town's 17 apartment buildings separately.

With estimates of FY25 billable units for each utility service established, the amount of each combined deficit or surplus can be equally divided amongst all applicable billable units to determine the *annual* total by which each unit's utility bill should increase or decrease. Dividing each annual change by 12 yields LRB's recommended monthly rate adjustments for each utility service, which can then be added to the existing monthly rates to determine the new recommended monthly rates per billable unit for each of Hideout's utility services. These calculations are outlined in **Table 5** below. Note the special consideration for standby customers owning lots for which water was brought by the developer.

TABLE 5: CALCULATION OF FINAL RECOMMENDED RATE ADJUSTMENTS

	STANDBY	WATER	STORM	SEWER
Combined Surplus (Deficit) (from Table 3)	(\$97,538)	\$163,444	(\$84,903)	(\$225,613)
Estimated FY25 Billable Units (from Table 4)	655	863	693	828
Recommended Rate Change (annual)	\$148.93	(\$189.39)	\$122.49	\$272.40
Recommended Rate Change (monthly)	\$12.41	(\$15.78)*	\$10.21	\$22.70
Current Monthly Rate (from Table 4)	\$21.83	\$94.90	\$6.00	\$28.60
Recommended New Monthly Rate	\$34.24	\$79.12*	\$16.21	\$51.30
Recommended New Monthly Standby Rate (brought water)¹	\$26.02			

* It is overly simplistic for all of the recommended water rate reduction to be applied to the base rate. Thus, consider the above water-related data to be nothing more than an illustration that a revenue adjustment is needed. As to how precisely that revenue adjustment should be implemented in the form of base and usage rate changes, see the "Items for Future Consideration" section of this report.

¹ Developers who bring their own water rights should not have to pay for water reservation expenses that are allocated to the standby utility fund. The \$26.02 monthly rate comes about through the identical calculation that produced the original standby rate (\$34.24), the only exception being that the \$97,538 standby deficit is initially reduced by the amount of the FY25 water reservation expense (\$64,661).

ITEMS FOR FUTURE CONSIDERATION

LRB's recommendations come with the following main caveats that should be addressed in future refinements or additions to this study.

1. Tiered Billing Structure for Water Usage: The Town of Hideout's water customers pay more than just the monthly base rate of \$94.90 if their monthly water usage exceeds 10,000 gallons. However, the analysis outlined in Table 5 was performed without any consideration of usage charges, meaning the calculated

monthly bill reduction—which is a 13% reduction relative to the current average bill of \$120.43³—would apply to all water customers equally, regardless of their individual amount of usage. To produce more equitable and proportionate rate adjustments, LRB recommends that an additional study be performed to determine how water rate reductions may be best applied to a combination of base and usage rates. LRB also recommends that, as part of this study, the current usage tiering structure be evaluated for a potential restructuring that would cause more than just the heaviest water users to pay variable usage rates from month to month. Such a restructuring may help promote conservation.

2. The “Perch” Subdivision: This development contains 150 lots but is billed as only 2 platted lots. Thus, the number of platted lots used by LRB to develop final rate recommendations (655) is 148 lots short of the actual, physical number of platted lots. If the Town can start billing standby fees to these additional 148 lots, this analysis should be updated to account for the increased standby revenues and the increased number of ratepayers, as both factors would substantially reduce the financial burden per billable standby lot.
3. Billable Units for Stormwater: Currently, the Town bills for stormwater service on the basis of billable meters. This causes multifamily apartment buildings to be assessed only one stormwater bill each month, the same as is assessed to single family homes. However, the impervious area of one of the Town’s apartment buildings is much greater than that of an average single family home in the Town. The Town should thus consider changing the billing basis for stormwater service from billable meters to impervious area.
4. The “Golden Eagle” Subdivision: No current or future homes in this subdivision will use Hideout’s stormwater system, as that service will be provided entirely by Hideout Local District #1 (HLD1). Furthermore, HLD1 will provide sewer service and infrastructure to *some* of the Golden Eagle homes, while the Town’s water system will be used by the entire subdivision. The standby rates developed as part of LRB’s analysis—one for developers who bring their own water rights and one for developers who don’t—seek to recover costs for reserving capacity in *all three* of Hideout’s utility systems. Because no future homes in the Golden Eagle subdivision will utilize all three of the Town’s systems, the standby rates that platted lots in the subdivision pay should be uniquely constructed to reflect only the costs of capacity reservation in one or both of the water and sewer systems, as the case may be. The standby rates recommended in this study should therefore **not** be assessed to platted lots in the Golden Eagle subdivision. Specific rates for the Golden Eagle subdivision should be developed as part of a future study.
5. JSSD Sewer Charges: As seen in Table 2, the entirety of the “JSSD - Sewer charges to town” expense item is currently allocated to the sewer utility fund. However, recent Town discussions with JSSD indicate that the previously mentioned increase in this expense is attributable to both usage-related stress on the sewer system **and** necessary capital improvements to system infrastructure. If, in the future, the Town can determine precisely how the increase is distributed between these cost components, it would be appropriate to allocate this expense item to both the sewer and the standby utility funds.

SUMMARY

Based on the findings of this analysis, an increase to standby, storm, and sewer rates is warranted. However, a reduction in water rates may help mitigate these increases. The proposed rates would allow for the funding of approximately \$250K in depreciation expense across all utilities, which could be used to fund future capital

³ This value results from dividing the total FY25 water billing revenues (\$1,247,199) by the assumed average number of FY25 water customers/connections (863).

needs. Each rate also considers a contribution to fund balance of 10 percent of that fund's total allocated expenses—a combined allocation of approximately \$200K from all utilities. If the Town anticipates the need for additional funds beyond the depreciation allocation and the fund balance contribution, the Town may consider reducing or eliminating the decrease to water rates to ensure higher revenue generation.



File Attachments for Item:

8. Consideration and Possible Adoption of Ordinance 2025-O-XX, Amending Hideout Municipal Code 5.04.075 to Align Construction Hours with Section 10.04.32 - Presented by Polly McLean (10 Mins.)

WHEREAS the Town is a residential community where homeowners and residents have an inherent right to reasonably quiet enjoyment of their residences which have been acquired at significant expense; and

WHEREAS the Town is located in a geographic area with a somewhat challenging construction season and that efficient construction can help mitigate rising housing costs as well as shorten the time needed to complete structures; and

WHEREAS the above represent competing interests from which the Town seeks to strike a fair, reasonable, livable and economic balance;

NOW, THEREFORE, be it enacted by the Town Council:

10.04.32 HOURS OF OPERATION

1. It shall be unlawful for any person or entity to perform, or cause to be performed, any Construction Work ~~or~~ on any Work Site under his, ~~or~~ her or it's control (or at which he or she is employed) outside of the hours of 7:00 am to 7:00 pm Monday through Friday MST; or outside of the hours of 10:00 am to ~~6~~5:00 pm MST on Saturdays, Sundays ~~or~~ as well as State and Federal holidays.
2. It shall also be unlawful to utilize or move motorized excavation construction equipment ~~and/or~~ construction trailers outside of ~~during~~ those same hours.
4. Definition: Construction Work ~~ONSTRUCTION WORK~~: Shall be defined as any building, motorized excavation, - erection, and/or remodeling of the exterior of any structure ~~activity~~ for which a permit ~~shall be~~ is required under the Town Code. A Work ~~construction~~ Site consists of ~~is~~ all area within the legal property boundaries iesy on which Construction Work is taking place.
5. Limited Exception: The Mayor, Town Council or Town Engineer may prospectively authorize extended hours for construction operations or procedures which, by their nature, require continuous operation, or modify or waive the hours of work on projects located in generally isolated areas where the extended hours do not impact ~~on~~ adjoining property occupants. Such extension authorizations must be temporary, provided in writing and posted on the work site in a location visible to the public.

6. Builders and general contractors shall have an obligation to prospectively advise all Construction Work performing employees and all subcontractors performing any Construction Work on a Work Site of the prohibitions of Section 10.04.32 prior to the commencement of any Construction Work. This section may be satisfied by providing a copy of Section 10.04.32 to all persons and entities performing Construction Work on the Work Site.

~~6. Construction Noise: Some loud noise is inherent in construction work. During permitted construction hours on any Saturday, Sunday or state or federal holiday, noise resulting from construction work must not measure more than 60 decibels 25 feet outside the property boundary of the construction site.~~

Section 3. Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

Section 4. Effective Date

This ordinance shall become effective immediately upon publication or posting as required by law.

PASSED AND ADOPTED by the Town Council of the Town of Hideout, Utah this ___ day of _____, 2026.

BY:

_____ Ralph Severini, Mayor

ATTEST:

_____, Recorder for Hideout

ORDINANCE 2026-O-XX

**AN ORDINANCE AMENDING HIDEOUT MUNICIPAL CODE SECTIONS
5.04.075 AND 10.04.32 TO ALIGN CONSTRUCTION HOURS OF OPERATION
WITH THE HIDEOUT TOWN STANDARD SPECIFICATIONS AND
DRAWINGS MANUAL**

WHEREAS, the Town Council of the Town of Hideout, Utah (“Town”) previously adopted Ordinance 2025-O-04 on May 8, 2025, amending Section 1.5 of the Hideout Town Standard Specifications and Drawings Manual which in subsection (A)(5) updated hours of construction operation as permitted by Section 10-10-02; and

WHEREAS, Section 5.04.075 of the Hideout Municipal Code also governs construction noise and hours of operation but was inadvertently not amended to reflect the new standards; and

WHEREAS, Section 10.04.32 of the Hideout Municipal Code additionally governs construction noise and hours of operation but was inadvertently not amended to reflect the new standards; and

WHEREAS, the Town Council finds it necessary and appropriate to amend Sections 5.04.075 and 10.04.32 to ensure consistency across the Code and to promote the public health, safety, and welfare of residents and the construction community.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Hideout, Utah, as follows:

Section 1. Amendment to Hideout Municipal Code 5.04.075

Section 5.04.075 of the Hideout Municipal Code is hereby amended to read as follows:

5.04.075 NOISE

A.

B. Construction Noise See Section 10.04.32 for specific restrictions related to Construction Noise. . . .

Section 2. Amendment to Hideout Municipal Code 10.04.32

Section 10.04.32 of the Hideout Municipal Code is hereby amended to read as follows:

10.04.32 HOURS OF OPERATION

1. It shall be unlawful for any person to perform, or cause to be performed, any construction work or on any work site under his or her control (or at which he is employed) outside of the hours of 7:00 am to 7:00 pm Monday through Friday; or outside of the hours of 10:00 am to 5:00 pm on Saturday, Sunday or state and federal holidays.
2. It shall also be unlawful to move construction equipment and/or construction trailers during those same hours.
4. Definition: CONSTRUCTION WORK: Shall be defined as any building activity for which a permit shall be required under Town Code. A construction site is all area within the legal property boundary on which construction work is taking place.
5. Exception: The Mayor, Town Council or Town Engineer may authorize extended hours for construction operations or procedures which, by their nature, require continuous operation, or modify or waive the hours of work on projects located in generally isolated areas where the extended hours do not impact on adjoining property occupants. Such extension authorizations must be provided in writing.
6. Construction Noise: Some loud noise is inherent in construction work. During permitted construction hours on any Saturday, Sunday or state or federal holiday, noise resulting from construction work must not measure more than 60 decibels 25 feet outside the property boundary of the construction site.

Section 3. Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

Section 4. Effective Date

This ordinance shall become effective immediately upon publication or posting as required by law.

PASSED AND ADOPTED by the Town Council of the Town of Hideout, Utah this ___ day of _____, 2026.

BY:

Ralph Severini, Mayor

ATTEST:

_____, Recorder for Hideout

ORDINANCE ~~2025~~2026-O-XX

**AN ORDINANCE AMENDING HIDEOUT MUNICIPAL CODE SECTIONS
5.04.075 AND 10.04.32 TO ALIGN CONSTRUCTION HOURS OF OPERATION
WITH THE HIDEOUT TOWN STANDARD SPECIFICATIONS AND
DRAWINGS MANUAL**

WHEREAS, the Town Council of the Town of Hideout, Utah (“Town”) previously adopted Ordinance 2025-O-04 on May 8, 2025, amending Section 1.5 of the Hideout Town Standard Specifications and Drawings Manual which in subsection (A)(5) updated hours of construction operation as permitted by Section 10-10-02; and

WHEREAS, Section 5.04.075 of the Hideout Municipal Code also governs construction noise and hours of operation but was inadvertently not amended to reflect the new standards; and

WHEREAS, Section 10.04.32 of the Hideout Municipal Code additionally governs construction noise and hours of operation but was inadvertently not amended to reflect the new standards; and

WHEREAS, the Town Council finds it necessary and appropriate to amend Sections 5.04.075 and 10.04.32 to ensure consistency across the Code and to promote the public health, safety, and welfare of residents and the construction community.

NOW THEREFORE, BE IT ORDAINED by the Town Council of the Town of Hideout, Utah, as follows:

Section 1. Amendment to Hideout Municipal Code 5.04.075

Section 5.04.075 of the Hideout Municipal Code is hereby amended to read as follows:

5.04.075 NOISE

A. . . .

~~B.—Construction Noise and Hours of Operation:~~

~~1.—See Section 10.04.32 for specific restrictions related to Construction Noise.
Hours of Construction Work: It shall be unlawful for any person to perform or
cause to be performed, any construction work on any construction site under his
control (or at which he is employed) outside of the hours of 7:00 am to 7:00 pm
Monday through Friday; or outside of the hours of 8:0010:00 am to 7:005:00 pm
on any Saturday, Sunday or federal holiday holidays.
Construction equipment and/or construction trailers may only be moved within
the Town during those same hours.~~

~~2. Definitions:~~

~~CONSTRUCTION WORK: Shall be defined as any building activity for which a permit shall be required under Town Code. A construction site is all area within the legal property boundary on which construction work is taking place.~~

~~3. Exception: The Mayor, Town Council or Town Engineer may authorize extended hours for construction operations or procedures which, by their nature, require continuous operation, or modify or waive the hours of work on projects located in generally isolated areas where the extended hours do not impact on adjoining property occupants. Such extension authorizations must be provided in writing.~~

~~4. Construction Noise: Some loud noise is inherent in construction work. During permitted construction hours on any Saturday, Sunday or federal holiday, noise resulting from construction work must not measure more than 60 decibels 25 feet outside the property boundary of the construction site.~~

~~C.B. . .~~

Section 2. Amendment to Hideout Municipal Code 10.04.32

Section 10.04.32 of the Hideout Municipal Code is hereby amended to read as follows:

10.04.32 HOURS OF OPERATION

1. It shall be unlawful for any person to perform, or cause to be performed, any construction work or on any work site under his or her control (or at which he is employed) outside of the hours of 7:00 am to 7:00 pm Monday through Friday; or outside of the hours of ~~8:00~~10:00 am to ~~7:00~~5:00 pm on ~~any~~ Saturday, Sunday or ~~state and~~ federal holidays.

2. It shall also be unlawful to move construction equipment and/or construction trailers during those same hours.

~~3. The Town office may authorize extended hours for construction operations or procedures which, by their nature, require continuous operations.~~

~~4. Definition: CONSTRUCTION WORK: Shall be defined as any building activity for which a permit shall be required under Town Code. A construction site is all area within the legal property boundary on which construction work is taking place.~~

~~5. Exception: The Mayor, Town Council or Town Engineer may authorize extended hours for construction operations or procedures which, by their nature, require continuous operation, or modify or waive the hours of work on projects located in generally isolated areas where the extended hours do not impact on adjoining property occupants. Such extension authorizations must be provided in writing.~~

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6. Construction Noise: Some loud noise is inherent in construction work. During permitted construction hours on any Saturday, Sunday or state or federal holiday, noise resulting from construction work must not measure more than 60 decibels 25 feet outside the property boundary of the construction site.

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Section 3. Severability

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

Section 4. Effective Date

This ordinance shall become effective immediately upon publication or posting as required by law.

PASSED AND ADOPTED by the Town Council of the Town of Hideout, Utah this ___ day of _____, ~~2025~~2026.

BY:

Ralph Severini, Mayor

ATTEST:

_____, Recorder for Hideout

File Attachments for Item:

9. Discussion and Possible Approval of Committee Appointments of Mayor and Councilmembers (10 Mins.)

Advisory Committees to the Mayor, including Working Groups

(DATE)

The following represents an outline for Hideout's committee structure. It is not expected that every working group will be formed or be active, as well as new working groups can be formed by the mayor as the need arises for the town.

I. Planning Related Groups

- 1) Working Groups
 - a) General Plan Working Group
 - i) Shall review and make a recommendation to the Planning Commission for the annual review of the General Plan and public works projects and any updates to the General Plan.
 - ii) Shall abide by Chapter 1.30 of the Hideout Municipal Code regarding General Plan Administration
 - iii) The Planning Department is designated as the department authorized to review discretionary land use projects, public or private, and to make findings regarding whether such projects are consistent.
 - b) Design Review
 - c) Planning Commission Chair
 - i) It is expected that the Chair will have regular discussions, at least once a month 7 days prior to a Planning Commission Meeting, with the mayor
- #### II. Infrastructure and Public Safety (co leads Jonathan Gunn and Brian Cooper)
1. Public Utilities Advisory Committee also known as the Water and Sewer Advisory Committee (as described in Hideout Municipal code 1.28.030 of town code)(Requirements listed in Town Code shall supersede any conflicting requirements below)
 - i) Shall consist office of (5) appointed voting members. (Jonathan, Brian, and 3 others to be appointed)
 - ii) The mayor, the Town Engineer and the Town attorney shall be ex officio, nonvoting members.

2) Additional Working Groups

1. Water Audit Working Group (monitor)
2. Water Conservation Working Group
3. Wildfire Risk Mitigation Working Group
4. Public Safety
5. Infrastructure Planning Working Group
6. Developer Relations – from an engineering and technical standpoint

III. Economic Development and Budget Committee (Tanya)

This committee works to encourage and incentivize economic growth for Hideout which includes areas that will generate sales tax and other non-residential taxes. It will provide information to the mayor and council on financials related to potential projects, as well as advisory to the Community Redevelopment Agency (CRA).

- Working Groups
 - Ross Creek Working Group
 - Silver Meadows (Richardson Flat) Working Group
 - Developer Relations – from a business perspective
 - Annexation Working Group
 - Budget Working Group
 - Compliance Working Group
 - Grants Working Group
 - Community Center Working Group

IV. Transportation and Parks Committee (Carol)

- Working Groups
 - Transportation

- Trails
- Parks
- Community Center

V. Communications Committee (Bob)

- Working Groups
 - Events Working Group
 - Resident Communications Working Group

Requirements for Each Committee and Working Group

- Shall have a chairperson and at least two other members, to be appointed by and serve at the pleasure of the mayor and Committee or Working Group Chair. The mayor shall be an ex officio member of every committee and working group. If a committee or working group has less than 3 members for 3 months or more, then at the discretion of the mayor, may no longer be considered a committee or working group. The mayor may still call on various members from the committee or working group to advise or produce a report for the town, but not as a representative of an official committee or working group.

Committees are designed to serve the long-term core needs of the town. Working Groups may be formed and dissolved at the discretion of the mayor and council. Working Groups have the same requirements as committees as described herein, but may have a shorter or fixed lifespan depending on their charter.

- Appointees should represent the community as a whole. Appointees may be removed by the mayor if they miss 2 consecutive meetings or more.
- Shall try to avoid having two of the same councilpersons as co-members of more than 2 committees. Committee chairpersons are automatically considered one member of their Working Groups.
- All appointments shall be for one year or the remainder of the calendar year in which the appointment is made. At the end of any term, the mayor shall appoint new members.
- Meetings.
 - Committees and working group shall meet at the call of the chairperson. The date, time and place of each meeting shall be announced at a preceding regular or special council meeting. All committees and working group are encouraged to meet at least once each quarter.
 - All meetings shall comply with all state laws, including but not limited to the Open and Public Meetings Act (OPMA). If a Committee or Working Group has three or more members of the legislative body or the Planning Commission participating in the committee or group, then requirements of the Open and Public Meetings Act must be complied with including noticing the meeting, recording the meeting and taking notes

- Duties and responsibilities.
 - The committees and working groups shall 1) promptly disclose any and all actual and potential conflicts of interest; 2) consider, review and make recommendations to the council concerning matters referred to them by the mayor and council. The mayor, committee and working groups chairpersons and boards and commissions are encouraged to suggest items to the council which should be considered by a committee and working group. Whenever any item is referred to a committee and working group, the council should establish a date by which the committee and working group should report back to the council. Committees and working groups shall review and make recommendations on items expressly authorized to do so by the affirmative votes of a majority of all council members.

- The city officers, department heads, and board and commission chairpersons shall cooperate with and assist the committees and working groups in carrying out their duties and responsibilities as directed by the Mayor and Council and in furnishing necessary information, except where prohibited by law; provided, that in the event any city officer, department head or board or commission chairperson deems to release or question information not in the best interest of the city, authority for that release shall be vested in the mayor. Release of records shall comply with the Government Records Access and Management Act (GRAMA).

- Reports.
 - In the appropriate place on the council agenda, reports from committees shall be made by the committee chairperson or an alternate designated by the chairperson. Committee and working group reports are due monthly one week before the Town Council Meeting and shall be placed in a public place such as Hideout's website. Committee chairs and the mayor will maintain a monthly call schedule to coincide with the written report so that committee information is shared with the mayor at least one week before the monthly council meeting. The format of the report follows.
 - Committee: (committee name) and Date of Report:
 - Chair and members names:
 - Attending members and non-members (engineering, planning, legal, others):
 - Vision and Mission of Committee
 - Date of last meeting: (day month year)
 - Date of next meeting: (day month year)
 - Action Items Completed:
 - Action Items In-progress/Pending:
 - Questions and outstanding issues
 - Proposed Formal Motions to the Mayor (if any):
 - Background on decisions (if any):
 - Summary of accomplishments (annually by June 1)
 - Funds spent or requested, with descriptions, by the committee since the last report

- BY MAY 1 OF EACH YEAR: the committee shall prepare a basic budget for the next town fiscal year beginning July 1 that outlines expected requests for time commitments by staff, services from outside consultants, and other expenses
 - BY JAN 15 OF EACH YEAR: the committee shall produce a semi-annual expense report summarizing their mid-year expenses and additional requests.
 - These reports do not have to be cumbersome or lengthy, a simple sentence or two may suffice on descriptive items.
- All requests for annual staffing, professional services and other capital investments exceeding the Town Administrator's authority (currently \$20,000) shall be delivered to mayor and council for approval. All expenditures shall be included in the budget.

File Attachments for Item:

10. Town Council Retreat Overview – February 10, 2025



NOTICE of the Hideout, UT
Town Council and Planning Commission Offsite Retreat
12 p.m. to 7:00 p.m. | Tuesday, February 10, 2026

Notice is hereby given that the Hideout, Utah, Town Council and Planning Commission will hold an offsite Retreat at approximately 12:00 PM, or soon thereafter, on Tuesday, February 10, 2026, at the Black Rock Mountain Resort, 909 West Peace Tree Trail, Heber City, UT 84032.

The agenda will be as follows:

- 1) 12:00-1:00 PM Welcome and Introductions
 - a) Networking Lunch with Regional Leaders
- 2) 1:00-1:45 PM Transportation Panel
- 3) 2:00-2:45 PM Wildfire/Emergency Preparedness Panel
- 4) 3:00 -4:00 PM State of the Town Address – Mayor Severini
 - a) Community Reception to follow
- 5) 4:00 - 7:00 PM General Plan update and Community Outreach
- 6) 7:00 PM Final Remarks and Concluding Discussion

I, Maria Devereux, the Recorder for the Town of Hideout, UT, do hereby certify that the above February 10, 2026 Hideout Town Council and Planning Commission Meeting Notice & Agenda was posted at the following locations: 1) Hideout Town Hall, 2) Town website www.hideoututah.gov and 3) the Utah Public Notice Website at www.utah.gov/pmn. Pursuant to the Americans with Disabilities Act, individuals needing special accommodations during the meeting should notify the Mayor or City Recorder at 435-659-4739 at least 24 hours prior to the meeting.

There may be telephone participation by one or more members. All public meetings will be held electronically via Zoom, and in-person at the offsite location.

Members of the public may log in via Zoom by dialing or logging in using the following:

Dial-In: 1-408-638-0986

Meeting ID: 435 659 4739

Meeting URL: <https://zoom.us/j/4356594739>

This meeting will be streamed on YouTube:

<https://www.youtube.com/channel/UCKdWnJad-WwvcAK75QjRb1w> and a recording will be made available thereafter.

*Please note: No public comment will be taken via YouTube.

Questions – email mdevereux@hideoututah.gov

File Attachments for Item:

11. Consideration and possible authorization of the Mayor to enter into a franchise agreement with UTOPIA - Presented by Nicole Cottle, UTOPIA and Polly McLean (10 Min.)

History

UTOPIA is an Interlocal Entity made up of 21 Utah cities that provide fiber to the home as a utility. UTOPIA only provides the infrastructure and does not provide any retail services. UTOPIA has 19 residential and many business Internet Service Providers that ride the fiber and are the provide of the cable services to the subscriber.

UTOPIA has fiber in the ground in Hideout in the Deer Water HOA. That was installed when the property was private. At some point the streets became public. During that time the fiber UTOPIA had in the ground was severely damaged during some construction. UTOPIA desires to repair those lines but requires a Franchise Agreement now that the lines are in the public ROW.

The proposed agreement grants UTOPIA a 10-year, non-exclusive franchise to operate a fiber-based cable system within Hideout City's public rights-of-way, subject to federal, state and local law.

This is a standard form Franchise Agreement used in most cities across the state. Here are a few key terms.

Key Terms at a Glance

Franchise Term & Scope

- **Term:** 10 years from effective date
- **Type:** Non-exclusive (City may grant additional franchises)
- **Authority:** City retains full franchising and police powers under applicable law

Financial Benefits to the City

- **Franchise Fee:** 5% of gross cable revenues (maximum allowed under federal law)
- **Payments:** Quarterly (monthly option with discount)
- **Audit Rights:** City may audit records every three years; interest applies to underpayments

*** Please note that these payments come from the cable providers NOT from UTOPIA. Under Federal Law UTOPIA cannot be charged and does not pay these fees given that we are not allowed to provide retail services – rather we remain in the City realm providing only the “road” that the retail providers ride on.*

Public, Educational & Government (PEG) Access

- One dedicated PEG channel on the basic tier
- One reserved PEG channel for future activation

**** Please note that these services are not provided by UTOPIA but by the cable providers that ride the fiber.**

Service & Equity Protections

- Service available citywide, including future annexations (subject to feasibility)
- No income-based discrimination in service availability

System Standards & Reliability

- Fiber-to-the-home or equivalent architecture
- Two-way capability and FCC-compliant technical standards
- Emergency Alert System (EAS) required and testable by the City
- Backup power requirements for system resiliency

Right-of-Way Protections

- City retains control over permits, construction standards, and restoration
- UTOPIA bears relocation costs for City capital projects
- Joint trenching and undergrounding coordination

UTOPIA does not micro-trench. We build with state of the art equipment, we do a full fiber to each home infrastructure rather than a G-Pon system, we will follow all of your engineering standards in full.

Risk Management

- Full indemnification of the City
- Robust insurance coverage naming the City as additional insured
- City inspection and stop-work authority for safety or compliance issues

Enforcement

- Clear notice-and-cure process for violations
- City retains remedies up to and including franchise revocation for material breaches

Staff Recommendation

Approve the Cable Franchise Agreement.

The agreement is consistent with federal and Utah law, reflects current best practices for municipal franchises, and balances public benefit, financial return, and operational flexibility.

FRANCHISE AGREEMENT
BETWEEN
THE CITY OF HIDEOUT
AND
UTAH TELECOMMUNICATIONS OPEN
INFRASTRUCTURE AGENCY

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FRANCHISE AGREEMENT

This Franchise Agreement (hereinafter, the “Agreement” or “Franchise Agreement”) is made between Hideout City (hereinafter, “City”) Utah Telecommunications Open Infrastructure Agency (hereinafter, “Grantee”).

The City, having determined that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide the services, facilities, and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with the Grantee for the construction, operation and maintenance of a Cable System on the terms and conditions set forth herein.

SECTION 1 - Definition of Terms

For the purpose of this Franchise Agreement, capitalized terms, phrases, words, and abbreviations shall have the meanings ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. §§ 521 et seq. (the “Cable Act”), unless otherwise defined herein.

1.1. “Basic Service” is the level of programming service which includes, at a minimum, all Broadcast Channels, all PEG SD Access Channels required in this Franchise, and any additional Programming added by the Grantee, and is made available to all Cable Services Subscribers in the Franchise Area.

1.2. “Customer” means a Person or user of the Cable System who lawfully receives Cable Service therefrom with the Grantee’s express permission.

1.3. “Effective Date” means the date on which all persons necessary to sign this Agreement in order for it to be binding on both parties have executed this Agreement as indicated on the signature page(s), unless a specific date is otherwise provided in the “Term” section herein.

1.4. “FCC” means the Federal Communications Commission, or successor governmental entity thereto.

1.5. “Franchise” means the initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, agreement, permit, license, resolution, contract, certificate, ordinance or otherwise, which authorizes the construction and operation of the Cable System.

1.6. “Franchise Agreement” or “Agreement” shall mean this Agreement and any amendments or modifications hereto.

1.7. “Franchise Area” means the present legal boundaries of the City as of the Effective Date, and shall also include any additions thereto, by annexation or other legal means.

1.8. “Franchising Authority” means the City or the lawful successor, transferee, designee, or assignee thereof.

1.9. “Grantee” shall mean Comcast of Wasatch, Inc.

1.10. “Gross Revenue” means the Cable Service revenue derived by the Grantee from the operation of the Cable System in the Franchise Area to provide Cable Services, calculated in accordance with generally accepted accounting principles (GAAP). Cable Service revenue includes monthly basic, premium and pay-per-view video fees, advertising and home shopping revenue, installation fees and equipment rental fees. Gross Revenue shall not include refundable deposits, bad debt, late fees, investment income, programming launch support payments, advertising sales commissions, nor any taxes, fees or assessments imposed or assessed by any governmental authority.

1.11. “Person” means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the Franchising Authority.

1.12. “Public Way” shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or easements dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Franchise Area, which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Franchise Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to the use thereof for the purposes of installing, operating, and maintaining the Grantee’s Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

SECTION 2 - Grant of Authority

2.1. The Franchising Authority hereby grants to the Grantee a nonexclusive Franchise authorizing the Grantee to construct and operate a Cable System in the Public Ways within the Franchise Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in any Public Way underground wires, cables,

conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System, and to provide such services over the Cable System as may be lawfully allowed.

2.1.1. Subject to federal and state preemption, the provisions of this Franchise constitute a valid and enforceable contract between the parties. The material terms and conditions contained in this Franchise may not be unilaterally altered by the Franchising Authority through subsequent amendment to any ordinance, rule, regulation, or other enactment of the Franchising Authority, except in the lawful exercise of the Franchising Authority's police power.

2.1.2. Notwithstanding any other provision of this Franchise, Grantee reserves the right to challenge provisions of any ordinance, rule, regulation, or other enactment of the Franchising Authority that conflicts with its contractual rights under this Franchise, either now or in the future.

2.2. Term of Franchise.

The term of the Franchise granted hereunder shall be Ten (10) years, commencing upon the Effective Date of the Franchise, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement and the Cable Act.

2.3. Renewal.

Any renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended.

Should the Franchise expire without a mutually agreed upon renewed Franchise Agreement and Grantee and Franchise Authority are engaged in an informal or formal renewal process, the Franchise shall continue on a month-to-month basis, with the same terms and conditions as provided in the Franchise, and the Grantee and Franchise Authority shall continue to comply with all obligations and duties under the Franchise.

2.4. Reservation of Authority.

Nothing in this Franchise Agreement shall (A) abrogate the right of the Franchising Authority to perform any public works or public improvements of any description, (B) be construed as a waiver of any codes or ordinances of general applicability promulgated by the Franchising Authority, or (C) be construed as a waiver or release of the rights of the Franchising Authority in and to the Public Ways.

SECTION 3 – Construction and Maintenance of the Cable System

3.1. Permits and General Obligations.

- (i) The Grantee shall be responsible for obtaining, at its own cost and expense, all generally applicable permits, licenses, or other forms of approval or authorization necessary to construct, operate, maintain or repair the Cable System, or any part thereof, prior to the commencement of any such activity. Construction, installation, and maintenance of the Cable System shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. All transmission and distribution structures, other lines, and equipment installed by the Grantee for use in the Cable System in accordance with the terms and conditions of this Franchise Agreement shall be located underground and so as to minimize the interference with the proper use of the Public Ways and the rights and reasonable convenience of property owners who own property that adjoins any such Public Way.
- (ii) The Parties hereby incorporate by reference the terms of the Grantor's codes, ordinances, resolutions, standards, procedures and regulations and this Franchise.

3.2. Conditions of Street Occupancy.

3.2.1. New Grades or Lines.

If the grades or lines of any Public Way within the Franchise Area are lawfully changed at any time during the term of this Franchise Agreement, then the Grantee shall, upon reasonable advance written notice from the Franchising Authority (which shall not be less than ten (10) business days) and at its own cost and expense, protect or promptly alter or relocate the Cable System, or any part thereof, so as to conform with any such new grades or lines. If public funds are available to any other user of the Public Way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall notify Grantee of such funding and make available such funds to the Grantee.

3.2.2. Relocation at request of Third Party.

The Grantee shall, upon reasonable prior written request of any Person holding a permit issued by the Franchising Authority to move any structure, temporarily move its wires to permit the moving of such structure; provided (i) the Grantee may impose a reasonable charge on any Person for the movement of its wires, and such charge may be required to be paid in advance of the movement of its wires; and (ii) the Grantee is given not less than ten (10) business days advance written notice to arrange for such temporary relocation.

3.2.3. Restoration of Public Ways.

If in connection with the construction, operation, maintenance, or repair of the Cable System, the Grantee disturbs, alters, or damages any Public Way, the Grantee agrees that it shall promptly at its own cost and expense replace and restore any such Public

Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to the disturbance.

3.2.4. Safety Requirements.

The Grantee shall, at its own cost and expense, undertake all necessary and appropriate efforts to maintain its work sites in a safe manner in order to prevent failures and accidents that may cause damage, injuries or nuisances. All work undertaken on the Cable System shall be performed in substantial accordance with applicable FCC or other federal and state regulations. The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Franchise Area.

3.2.5. Trimming of Trees and Shrubbery.

The Grantee shall have the authority to trim trees or other natural growth overhanging any of its underground Cable System in the Franchise Area so as to prevent contact with the Grantee's wires, cables, or other equipment. All such trimming shall be done at the Grantee's sole cost and expense. The Grantee shall be responsible for any damage caused by such trimming.

3.2.6. Underground Construction

- (i) When required by general ordinances, resolutions, regulations or rules of the Grantor or applicable State or federal law, Grantee's Cable System shall be placed underground at Grantee's expense unless funding is generally available for such relocation to all users of the Rights-of-Way. Placing facilities underground does not preclude the use of ground-mounted appurtenances, so long as such are less than fifty-four inches (54") in height, except if nationally accepted industry standards for ground-mounted appurtenances of its type require it to be taller, and are located entirely in the Public Way.
- (ii) It shall be lawful for Grantee to make all needed excavations in the Rights-of-Way for the purpose of placing, , laying, maintaining, and repairing,its underground lines and equipment.
- (iii) This Franchise does not grant, give or convey to the Grantee the right or privilege to install its facilities in any manner on specific utility poles or equipment of the Grantor or any other Person.
- (iv) Grantee will comply with Grantor's Municipal Code including provisions which prohibit above ground cables absent a showing on commercial impossibility)

3.2.7 Use of Rights-of-Way.

Within parameters reasonably related to the Grantor's role in protecting the public health, safety and welfare, the Grantor may require that Cable System Facilities be installed at a particular time, at a specific place or in a particular manner as a condition of

access to a particular Right-of-Way and may deny access if Grantee is not willing to comply with the Grantor's requirements.

3.2.8 Movement of Cable System Facilities.

1. Nothing in this Franchise shall prevent the Grantor or public utilities from constructing any public work or capital improvement. Grantee shall pay the costs associated with any requirement of the Grantor to relocate its Cable System Facilities located in the Right-of-Way. Following sixty (60) days written notice by the Grantor, Grantee shall remove, replace, relocate, modify or disconnect any of its Facilities within any Right-of-Way, or on any other property of the Grantor, except that the Grantor shall provide at least one hundred twenty (120) days written notice of any major City capital improvement project which would require the permanent removal, relocation, replacement, modification or disconnection of Grantee's Facilities or equipment from the Right-of-Way. If Grantee fails to complete this work within the time prescribed and to the Grantor's satisfaction, the Grantor may cause such work to be done and bill the cost of the work to Grantee. Grantee shall remit payment to the Grantor within forty-five (45) days of receipt of an itemized list of those costs.

2. If any removal, replacement, modification or disconnection of the Cable System is required to accommodate the construction, operation or repair of the facilities or equipment of another City franchise holder(s), Grantee shall, after at least thirty (30) days advance written notice, take action to effect the necessary changes requested by the responsible entity, as long as, the other franchise holder(s) pay for Grantee's time and material costs associated with the project and Grantee is issued a permit, if necessary, for such work by the City.

3. At the request of any Person holding a valid City permit and upon reasonable advance notice, Grantee shall remove, replace, relocate, modify or disconnect any of its Facilities or temporarily raise, lower or remove its Facilities as necessary to accommodate the work under the permit. Unless the project is identified by the Grantor as a City capital improvement project, the cost must be paid by the permit holder, and Grantee may require the estimated payment in advance.

3.3. Extensions of the Cable System

Nothing in this Agreement requires Grantee to build to all areas of the Franchising Authority. Grantee retains the discretion to determine the scope, location, and timing of the design and construction of its network, as well as the windows during which residential Subscribers may enroll for services, so long as such decisions are consistent with this Section. Grantee, at its sole discretion, may determine separately defined geographic areas within the Franchise Area where its System will be deployed, services will be offered, or facilities will be upgraded.

Grantee has shared with the Grantor its Cable System deployment plans which include the estimated projected dates when deployment of the Cable System will be completed and activated in various parts of the Town, which have been found to be acceptable to the Grantor. Grantee commits to using its commercially reasonable efforts to construct its Cable System within the Grantor in accordance with those plans and will

meet with the Grantor, at a minimum annually, to update the Grantor on the current status of construction and anticipated timeline to completion. Nothing in this Franchise, however, requires Grantee to build-out and serve all areas of the Grantor if, in Grantee's good faith estimation, build-out and service activation cannot be completed in a commercially reasonable fashion.

SECTION 4 - Service Obligations

4.1. General Service Obligation.

Nothing in this Agreement requires Grantee to build to all areas of the Franchising Authority. Grantee retains the discretion to determine the scope, location, and timing of the design and construction of its underground network, as well as the windows during which residential Subscribers may enroll for services, so long as such decisions are consistent with this Section. Grantee, at its sole discretion, may determine separately defined geographic areas within the Franchise Area where its System will be deployed, services will be offered, or facilities will be upgraded.

4.2. Programming.

The Grantee shall offer to all Customers a diversity of video programming services.

4.3. No Discrimination.

The Grantee shall not discriminate or permit discrimination between or among any Persons in the availability of Cable Services or other services provided in connection with the Cable System in the Franchise Area. It shall be the right of all Persons to receive all available services provided on the Cable System so long as such Person's financial or other obligations to the Grantee are satisfied. Nothing contained herein shall prohibit the Grantee from offering bulk discounts, promotional discounts, package discounts, or other such pricing strategies as part of its business practice.

4.4. New Developments.

The Franchising Authority shall provide the Grantee with written notice of the issuance of building or development permits for planned developments within the Franchise Area requiring undergrounding of cable facilities. The Franchising Authority agrees, to the extent of its authority under Town codes, ordinances, and Master Development Agreements, to require the developer, as a condition of issuing the permit, to give the Grantee access to open trenches for deployment of cable facilities and at least ten (10) business days written notice of the date of availability of open trenches. Notwithstanding the foregoing, the Grantee shall not be required to utilize any open trench.

SECTION 5 - Fees and Charges to Customers

5.1. All rates, fees, charges, deposits and associated terms and conditions to be imposed by the Grantee or any affiliated Person for any Cable Service as of the Effective Date shall be in accordance with applicable FCC's rate regulations. Before any new or modified rate, fee, or charge is imposed, the Grantee shall follow the applicable FCC notice requirements and rules and notify affected Customers, which notice may be by any means permitted under applicable law.

SECTION 6 - Customer Service Standards; Customer Bills and Privacy Protection

6.1. Customer Service Standards.

The Franchising Authority hereby adopts the customer service standards set forth in Part 76, §76.309 of the FCC's rules and regulations, as amended. The Grantee shall comply in all respects with the customer service requirements established by the FCC.

The Grantee shall provide, upon the written request of the Franchising Authority, and no more than twice annually, a brief report detailing the reliability of the network within the Franchise Area including non-confidential data the Grantee possesses or may compile with a reasonable and practicable amount of effort regarding the number, duration, and customers impacted by outages as well as any measures taken to reduce those outages.

6.2. Customer Bills.

Customer bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Customers, and in a way that (A) is not misleading and (B) does not omit material information. Notwithstanding anything to the contrary in Section 6.1, above, the Grantee may, in its sole discretion, consolidate costs on Customer bills as may otherwise be permitted by Section 622(c) of the Cable Act (47 U.S.C. §542(c)).

6.3. Privacy Protection.

The Grantee shall comply with all applicable federal and state privacy laws, including Section 631 of the Cable Act and regulations adopted pursuant thereto.

SECTION 7 - Oversight and Regulation by Franchising Authority

7.1. Franchise Fees.

The Grantee shall pay to the Franchising Authority a franchise fee in an amount equal to five percent (5%) of annual Gross Revenues received from the operation of the

Cable System to provide Cable Service in the Franchise Area; provided, however, that Grantee shall not be compelled to pay any higher percentage of franchise fees than any other video service provider providing service in the Franchise Area. The payment of franchise fees shall be made on an annual basis and shall be due forty-five (45) days after the close of each calendar year. Each franchise fee payment shall be accompanied by a report prepared by a representative of the Grantee showing the basis for the computation of the Franchise Fees paid during that period.

7.2. Franchise Fees Subject to Audit.

7.2.1. Upon reasonable prior written notice, during normal business hours at Grantee's principal business office, the Franchising Authority shall have the right to inspect the Grantee's financial records used to calculate the Franchising Authority's franchise fees; provided, however, that any such inspection shall take place within two (2) years from the date the Franchising Authority receives such payment, after which period any such payment shall be considered final.

7.2.2. Upon the completion of any such audit by the Franchising Authority, the Franchising Authority shall provide to the Grantee a final report setting forth the Franchising Authority's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Grantee shall have thirty (30) days from the receipt of the report to provide the Franchising Authority with a written response agreeing to or refuting the results of the audit, including any substantiating documentation. Based on these reports and responses, the parties shall agree upon a "Finally Settled Amount." For purposes of this Section, the term "Finally Settled Amount(s)" shall mean the agreed upon underpayment, if any, to the Franchising Authority by the Grantee as a result of any such audit. If the parties cannot agree on a "Final Settlement Amount," the parties shall submit the dispute to a mutually agreed upon mediator within sixty (60) days of reaching an impasse. In the event an agreement is not reached at mediation, either party may bring an action to have the disputed amount determined by a court of law.

7.2.3. Any "Finally Settled Amount(s)" due to the Franchising Authority as a result of such audit shall be paid to the Franchising Authority by the Grantee within thirty (30) days from the date the parties agree upon the "Finally Settled Amount." Once the parties agree upon a Finally Settled Amount and such amount is paid by the Grantee, the Franchising Authority shall have no further rights to audit or challenge the payment for that period. The Franchising Authority shall bear the expense of its audit of the Grantee's books and records.

7.3. Oversight of Franchise.

In accordance with applicable law, the Franchising Authority shall have the right to, on reasonable prior written notice and in the presence of Grantee's employee, periodically inspect the construction and maintenance of the Cable System in the Franchise

Area as necessary to monitor Grantee's compliance with the provisions of this Franchise Agreement.

7.4. Technical Standards.

The Grantee shall comply with all applicable technical standards of the FCC as published in subpart K of 47 C.F.R. § 76. To the extent those standards are altered, modified, or amended during the term of this Franchise, the Grantee shall comply with such altered, modified or amended standards within a reasonable period after such standards become effective. The Franchising Authority shall have, upon written request, the right to obtain a copy of tests and records required to be performed pursuant to the FCC's rules.

7.5. Maintenance of Books, Records, and Files.

7.5.1. Books and Records.

Throughout the term of this Franchise Agreement, the Grantee agrees that the Franchising Authority may review the Grantee's books and records regarding customer service performance levels in the Franchise Area to monitor Grantee's compliance with the provisions of this Franchise Agreement, upon reasonable prior written notice to the Grantee, at the Grantee's business office, during normal business hours, and without unreasonably interfering with Grantee's business operations. All such documents that may be the subject of an inspection by the Franchising Authority shall be retained by the Grantee for a minimum period of three (3) years.

7.5.2. Proprietary Information.

Notwithstanding anything to the contrary set forth in this Section, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. Subject to Utah Code 63G-1 *et. Seq.*, as amended from time to time, the Franchising Authority agrees to treat any confidential information disclosed by the Grantee as confidential and only to disclose it to those employees, representatives, and agents of the Franchising Authority that have a need to know in order to enforce this Franchise Agreement and who agree to maintain the confidentiality of all such information. The Grantee shall not be required to provide Customer information in violation of Section 631 of the Cable Act or any other applicable federal or state privacy law. For purposes of this Section, the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of franchise fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Grantee to competitively sensitive. Grantee may make proprietary or confidential information available for inspection but not copying or removal by the Franchise Authority's representative. In the event that the Franchising Authority has in its possession and

receives a request under a state “sunshine,” public records, or similar law for the disclosure of information the Grantee has designated as confidential, trade secret or proprietary, the Franchising Authority shall notify Grantee of such request and cooperate with Grantee in opposing such request.

SECTION 8 – Transfer of Cable System or Franchise or Control of Grantee

8.1. Neither the Grantee nor any other Person may transfer the Cable System or the Franchise without the prior written consent of the Franchising Authority, which consent shall not be unreasonably withheld or delayed. No transfer of control of the Grantee, defined as an acquisition of 51% or greater ownership interest in Grantee, shall take place without the prior written consent of the Franchising Authority, which consent shall not be unreasonably withheld or delayed. No consent shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation. Within thirty (30) days of receiving a request for consent, the Franchising Authority shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the additional information, if any, it requires to determine the legal, financial and technical qualifications of the transferee or new controlling party. If the Franchising Authority has not taken final action on the Grantee’s request for consent within one hundred twenty (120) days after receiving such request, consent shall be deemed granted.

SECTION 9 - Insurance and Indemnity

9.1. Insurance.

Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain Comprehensive General Liability Insurance and provide the Franchising Authority certificates of insurance designating the Franchising Authority and its officers, boards, commissions, councils, elected officials, agents and employees as additional insureds and demonstrating that the Grantee has obtained the insurance required in this Section. Such policy or policies shall be in the minimum amount of Two Million Dollars (\$2,000,000.00) for bodily injury or death to any one person, and Two Million Dollars (\$2,000,000.00) for bodily injury or death of any two or more persons resulting from one occurrence, and Two Million Dollars (\$2,000,000.00) for property damage resulting from any one accident. Such policy or policies shall be non-cancelable except upon thirty (30) days prior written notice to the Franchising Authority. The Grantee shall provide workers’ compensation coverage in accordance with applicable law. The Grantee shall indemnify and hold harmless the Franchising Authority from any workers compensation claims to which the Grantee may become subject during the term of this Franchise Agreement

9.2. Indemnification.

The Grantee shall indemnify, defend and hold harmless the Franchising Authority, its officers, employees, and agents from and against any liability or claims resulting from property damage or bodily injury (including accidental death) that arise out of the Grantee's construction, operation, maintenance or removal of the Cable System, including, but not limited to, reasonable attorneys' fees and costs, provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify and defend the Franchising Authority within ten (10) business days of receipt of a claim or action pursuant to this Section. If the Franchising Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Franchising Authority. Notwithstanding the foregoing, the Grantee shall not indemnify the Franchising Authority or the County for any damages, liability or claims resulting from the willful misconduct or negligence of the Franchising Authority or County.

SECTION 10 - System Description and Service

10.1. System Capacity.

During the term of this Agreement the Grantee's Cable System shall be capable of providing a minimum of 85 channels of video programming with satisfactory reception available to its customers in the Franchise Area.

SECTION 11 - Enforcement and Termination of Franchise

11.1. Notice of Violation or Default.

In the event the Franchising Authority believes that the Grantee has not complied with the material terms of the Franchise, it shall notify the Grantee in writing with specific details regarding the exact nature of the alleged noncompliance or default.

11.2. Grantee's Right to Cure or Respond.

The Grantee shall have forty-five (45) days from the receipt of the Franchising Authority's written notice: (A) to respond to the Franchising Authority, contesting the assertion of noncompliance or default; or (B) to cure such default; or (C) in the event that, by nature of the default, such default cannot be cured within the forty-five (45) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that the cure will be completed.

11.3. Public Hearings.

In the event the Grantee fails to respond to the Franchising Authority's notice or in the event that the alleged default is not remedied within forty-five (45) days or the date projected by the Grantee, the Franchising Authority shall schedule a public hearing to investigate the default. Such public hearing shall be held at the next regularly scheduled meeting of the Franchising Authority that is scheduled at a time that is no less than ten (10) business days therefrom. The Franchising Authority shall notify the Grantee in writing of the time and place of such meeting and provide the Grantee with a reasonable opportunity to be heard.

11.4. Enforcement.

Subject to applicable federal and state law, in the event the Franchising Authority, after such public hearing, determines that the Grantee is in default of any material provision of the Franchise, the Franchising Authority may:

11.4.1. seek specific performance of any provision that reasonably lends itself to such remedy as an alternative to damages, or seek other equitable relief; or

11.4.2. in the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked in accordance with the following:

(i) The Franchising Authority shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including two or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth with specificity the exact nature of the noncompliance. The Grantee shall have ninety (90) days from the receipt of such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a response from the Grantee or upon receipt of the response does not agree with the Grantee's proposed remedy, it may then seek termination of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least ten (10) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to request termination of the Franchise.

(ii) At the designated hearing, the Franchising Authority shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be terminated. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the Franchising Authority shall be in writing and shall be delivered to the Grantee by certified mail. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Franchising Authority "de novo" and to modify or reverse such decision as justice may require.

11.5. Technical Violation.

The Franchising Authority agrees that it is not its intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for so-called “technical” breach(es) or violation(s) of the Franchise, which shall include, but not be limited, to the following:

11.5.1. in instances or for matters where a violation or a breach of the Franchise by the Grantee was good faith error that resulted in no or minimal negative impact on the Customers within the Franchise Area; or

11.5.2. where there existed circumstances reasonably beyond the control of the Grantee and which precipitated a violation by the Grantee of the Franchise, or which were deemed to have prevented the Grantee from complying with a term or condition of the Franchise.

SECTION 12 – Competitive Equity

12.1. Purposes.

The Grantee and the Franchising Authority acknowledge that there is increasing competition in the video marketplace among cable operators, direct broadcast satellite providers, telephone companies, broadband content providers and others; new technologies are emerging that enable the provision of new and advanced services to Franchise Authority residents; and changes in the scope and application of the traditional regulatory framework governing the provision of video services are being considered in a variety of federal, state and local venues. To foster an environment where video service providers using the public rights-of-way can compete on a competitively neutral and nondiscriminatory basis; encourage the provision of new and advanced services to Franchise Authority residents; promote local communications infrastructure investments and economic opportunities in the Franchise Authority; and provide flexibility in the event of subsequent changes in the law, the Grantee and the Franchising Authority have agreed to the provisions in this Section, and they should be interpreted and applied with such purposes in mind.

12.2. New Video Service Provider.

12.2.1. Notwithstanding any other provision of this Agreement or any other provision of law, if any Video Service Provider (“VSP”) (i) enters into any agreement with the Franchising Authority to provide video services to subscribers in the Franchise Authority, or (ii) otherwise begins to provide video services to subscribers in the Franchise Authority (with or without entering into an agreement with the Franchising Authority), the Franchising Authority, upon written request of the Grantee, shall permit the Grantee to construct and operate its Cable System and to provide video services to subscribers in the Franchise Authority under the same agreement and/or under the same terms and conditions as apply to the new VSP. The Grantee and the Franchising Authority shall enter into an agreement or other appropriate authorization (if necessary) containing the same terms and

conditions as are applicable to the VSP within sixty (60) days after the Grantee submits a written request to the Franchising Authority.

12.2.2. If there is no written agreement or other authorization between the new VSP and the Franchising Authority, the Grantee and the Franchising Authority shall use the sixty (60) day period to develop and enter into an agreement or other appropriate authorization (if necessary) that to the maximum extent possible contains provisions that will ensure competitive equity between the Grantee and other VSPs, taking into account the terms and conditions under which other VSPs are allowed to provide video services to subscribers in the Franchise Authority.

12.3. Subsequent Change in Law.

If there is a change in federal, state or local law that provides for a new or alternative form of authorization for a VSP to provide video services to subscribers in the Franchise Authority, or that otherwise changes the nature or extent of the obligations that the Franchising Authority may request from or impose on a VSP providing video services to subscribers in the Franchise Authority, the Franchising Authority agrees that, notwithstanding any other provision of law, upon Grantee's written request the Franchising Authority shall: (i) permit the Grantee to provide video services to subscribers in the Franchise Authority on the same terms and conditions as are applicable to a VSP under the changed law; (ii) modify this Agreement to comply with the changed law; or (iii) modify this Agreement to ensure competitive equity between the Grantee and other VSPs, taking into account the conditions under which other VSPs are permitted to provide video services to subscribers in the Franchise Authority. The Franchising Authority and the Grantee shall implement the provisions of this Section within sixty (60) days after the Grantee submits a written request to the Franchising Authority. Notwithstanding any provision of law that imposes a time or other limitation on the Grantee's ability to take advantage of the changed law's provisions, the Grantee may exercise its rights under this Section at any time, but not sooner than thirty (30) days after the changed law goes into effect.

12.4 Effect on This Agreement.

Any agreement, authorization, right or determination to provide video services to subscribers in the Franchise Authority under Sections 12.2 or 12.3 shall supersede this Agreement, and the Grantee, at its option, may terminate this Agreement or portions thereof, upon written notice to the Franchising Authority, without penalty or damages.

12.5 The term "Video Service Provider" or "VSP" shall mean any entity using the public rights-of-way to provide multiple video programming services to subscribers, for purchase or at no cost, regardless of the transmission method, facilities, or technology used. A VSP shall include but is not limited to any entity that provides cable services, multichannel multipoint distribution services, broadcast satellite services, satellite-delivered services, wireless services, and Internet-Protocol based services.

SECTION 13 - Miscellaneous Provisions

13.1. Force Majeure.

The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, failure of utility service necessary to operate the Cable System, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee’s ability to anticipate or control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee’s cable or equipment is attached, as well as unavailability of materials or qualified labor to perform the work necessary.

13.2 Furthermore, the parties hereby agree that it is not the Grantor’s intention to subject the Grantee to penalties, fines, forfeiture or revocation of the Agreement for violations of the Agreement where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the Grantor and/or Subscribers.

13.3. Notice.

All notices shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

To the Franchising Authority:

To the Grantee:

UTOPIA Fiber
5858 South 900 East

Murray, Utah 84121

13.3. Entire Agreement.

This Franchise Agreement, including all Exhibits, embodies the entire understanding and agreement of the Franchising Authority and the Grantee with respect to the subject matter hereof and supersedes all prior understandings, agreements and communications, whether written or oral. All ordinances or parts of ordinances that are in conflict with or otherwise impose obligations different from the provisions of this Franchise Agreement are superseded by this Franchise Agreement.

13.4. Severability.

If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

13.5. Governing Law.

This Franchise Agreement shall be deemed to be executed in the State of Utah and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Utah, as applicable to contracts entered into and performed entirely within the State.

13.6. Modification.

No provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Franchising Authority and the Grantee, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution or order by the Franchising Authority, as required by applicable law.

13.7. No Third-Party Beneficiaries.

Nothing in this Franchise Agreement is intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise Agreement.

13.8. No Waiver of Rights.

Nothing in this Franchise Agreement shall be construed as a waiver of any rights, substantive or procedural, Grantee may have under federal or state law unless such waiver is expressly stated herein.

IN WITNESS WHEREOF, this Franchise Agreement has been executed by the duly authorized representatives of the parties as set forth below, as of the date set forth below:

For Franchising Authority:

By: _____

Name: _____

Title: _____

Date: _____

For UTOPIA Fiber _____:

By: _____

Name: _____

Title: _____

Date: _____