

UTAH COMMUNICATIONS AGENCY NETWORK
SERVICE CONTRACT

This Service Contract ("Contract") is dated JAN 1, 2013 (the "Effective Date"), and entered into by and between the UTAH COMMUNICATIONS AGENCY NETWORK ("UCAN"), an independent state agency, and Grantsville City Police & Fire (the "Subscriber").

WHEREAS, UCAN is authorized to own, construct, operate, maintain and repair a regional or statewide public safety governmental communications network and related facilities located in the State of Utah on behalf of the Subscriber and all other Users, as defined below; and

WHEREAS, the purpose of this Contract is to provide the terms and conditions under which the Subscriber will receive services from UCAN.

NOW, THEREFORE, to accomplish the purposes of the Act, as defined below, and in consideration of the benefits to be received, UCAN and Subscriber agree as follows:

Section 1. Definitions.

- a. "Act" means the Utah Communications Agency Network Act, Title 63C, Chapter 7, of the Utah Code.
- b. "Board" means the UCAN Board established by the Act.
- c. "Communications Network" means the radio communications network for public safety including, but not limited to, sites, towers, repeaters, connectivity, and other related equipment.
- d. "Executive Committee" means the UCAN administrative body established by the Act.
- e. "FCC" means the Federal Communications Commission.
- f. "Force Majeure" means any cause or event that is beyond a party's reasonable control such as, without limitation, acts of God, hurricanes, earthquakes, fires, floods, restraints of any kind, strikes or other labor disturbances, riots, epidemics, explosions, breakage to machinery or transmission lines, or acts of a public enemy, a governmental entity, or another party.
- g. "Party" shall mean UCAN or the Subscriber individually, and together, the "Parties."
- h. "Service Period" means each period beginning on the first day of each month and ending on the last day of each month during which the Subscriber receives services furnished by UCAN.
- i. "Service Rates" shall mean the rates set forth in the attached Schedule "A" and such rates are to be paid monthly by the Subscriber to UCAN for each Unit of Service provided to the Subscriber.
- j. "Subscriber Representative" means the person designated in writing by the Subscriber's chief executive officer or duly authorized officer to act on behalf of the Subscriber for the purpose of resolving any disputes in connection with this Contract. The Subscriber Representative may be an officer or employee of the Subscriber.

k. "Unit of Service" means the type and quantity of service to be provided by UCAN to the Subscriber for each transceiver that either sends or receives radio signals through the Communications Network.

l. "Users" shall mean those local, state, and federal agencies, and other agencies, authorized by UCAN to use the Communications Network, and those other companies which have been conferred certain rights to use the Communications Network.

Section 2. Representations and Warranties of UCAN. UCAN represents and warrants to the Subscriber that:

a. UCAN is authorized, under the Act, to enter into the transactions contemplated by this Contract and to perform its obligations under the Contract. UCAN has duly authorized and approved the execution and delivery of this Contract.

b. UCAN shall provide the Subscriber with access to the Communications Network during the Term of the Contract, as defined below. Except with respect to portions of the Communications Network that may be leased by UCAN, the Parties agree that UCAN shall retain all rights, title and interest in the Communications Network.

c. UCAN agrees to insure the Communications Network against loss or damage of the kinds usually insured against by public bodies similarly situated, including policies of casualty and property damage insurance, by means of the State Risk Management Fund.

d. UCAN shall operate and maintain the Communications Network in accordance with all current federal, state, and local laws and regulations, including applicable FCC rules and regulations, and other governmental authorities having jurisdiction over the Communications Network.

Section 3. Representations and Warranties of the Subscriber. The Subscriber represents and warrants to UCAN that:

a. The Subscriber has obtained all authorizations, consents, and approvals of governmental bodies or agencies required in connection with the execution and delivery of this Contract and the performance by the Subscriber of its obligations under the Contract. The Subscriber has duly authorized and approved the execution and delivery of this Contract.

b. There are no actions, suits, or proceedings pending before any court or administrative agency, or threatened to the best knowledge of the Subscriber, which may adversely affect the ability of the Subscriber to perform its obligations under this Contract.

c. The Subscriber shall pay in full each monthly billing statement for services rendered in conformity with the requirements set forth in this Contract.

d. During the Term, the Subscriber shall comply with all current federal, state, and local laws and regulations, including applicable FCC rules and regulations, and other governmental authorities having jurisdiction over the Communications Network.

Section 4. Access to the Communications Network.

a. Number of Transceivers. The Subscriber shall be entitled to receive service from UCAN which includes access to the Communications Network for all of the transceivers to be used by the Subscriber.

b. Standard Operating Procedures. The Subscriber shall operate and maintain equipment and use the Communications Network in compliance with the Standard Operating Procedures established by the Executive Committee, which may be amended from time to time and provided in writing to the Subscriber. The Subscriber may request and UCAN will provide training and consultation regarding use of the Communications Network.

c. Suspension or Termination of Use. The Subscriber's use of the Communications Network may be suspended or terminated by the Executive Committee at its discretion for events set forth in Section 9.

Section 5. Services.

a. Basic Service. Basic service is comprised of access to the Communications Network as provided in Section 4.

b. Additional Services. UCAN may provide certain additional services to the Subscriber, such as radio programming or template development. The fees for additional services will be charged at current published rates.

c. Force Majeure. If UCAN is unable to perform its obligations under this Contract by reason of Force Majeure, UCAN shall promptly notify the Subscriber in writing. The obligations of UCAN shall be suspended during the continuance of the inability and UCAN shall endeavor to remove such inability within a reasonable period of time under the circumstances.

Section 6. Billing Procedures.

a. Service Rates. Service Rates have been established by the Executive Committee taking into consideration the costs of acquisition, construction, operation, and maintenance of the Communications Network. Any adjustments to the Service Rates will be presented to the Board for ratification and approval at its annual budget meeting. Billing for each Subscriber unit will commence at the time UCAN assigns the radio a system ID, and will terminate when the radio ID is turned off.

b. Notification of Charges. On a monthly basis, UCAN shall send a billing statement notifying the Subscriber of the charges to be paid for the immediately preceding Service Period, and the charges shall be due and payable within thirty (30) days. In the event the Service Rates billed to the Subscriber in a given month are under or over the appropriate charges, the amount shall be added to, or applied as a credit to, the charges billed in the following month.

Section 7. Notices. All notices, requests, demands and other communications required by this Contract shall be in writing and shall be deemed to have been given at the time of delivery if personally delivered or three business days after mailing if mailed by first class mail, postage prepaid and addressed to the Party at its address in this Section or at such address as any Party may designate in writing with notice pursuant to this Section. At the time of execution of this Contract, the addresses of the Parties are as follows:

UCAN: Utah Communications Agency Network
Attention: Steven H. Proctor
5360 S. Ridge Village Drive
Salt Lake City, Utah 84118
801-840-4200 Telephone Number
801-840-4242 Facsimile Number

Subscriber: _____
Attention: _____

_____ Telephone Number
_____ Facsimile Number
_____ Email Address

Section 8. Term. This Contract begins on the Effective Date and will remain in effect for an initial term of one (1) year (the "Initial Term"), unless terminated earlier as provided in this Contract, and the Contract shall thereafter automatically renew for successive one (1) year periods (each a "Renewal Term") for so long as UCAN is providing services to the Subscriber, unless either Party gives the other sixty (60) days written notice of its intent not to renew. The Initial Term and any Renewal Terms are collectively referred to as the "Term."

Section 9. Termination. This Contract may be terminated by UCAN pursuant to this Section in the event that: (a) the Subscriber fails to pay the Service Rates as required under the terms of this Contract; (b) the Subscriber violates UCAN's Standard Operating Procedures or current applicable laws, or (c) other just cause, which for purposes of this Section, shall mean a fair and honest cause or reason, regulated by good faith on the part of UCAN, and based upon facts that are supported by substantial evidence and reasonably believed by the Executive Committee to be true. Termination may occur after the Executive Committee gives the Subscriber notice that details the violation or cause in a manner sufficient to permit its cure, and after the Subscriber fails to cure such violation or cause within sixty (60) days, unless such violation or cause is not reasonably curable within such period, in which case the Executive Committee shall not suspend or terminate services to the Subscriber so long as the Subscriber has commenced a cure within such period and diligently pursues such cure to completion. In addition to any other grounds for termination provided for herein or by law, this Contract may be terminated by the mutual written consent of UCAN and the Subscriber. Upon receipt by UCAN of written notice from the Subscriber to the effect that the Subscriber intends to discontinue receipt of all services, UCAN shall remove the Subscriber's transceivers from the Communications Network and termination of this Contract shall be effective at the end of the then current Term, or as mutually agreed in writing by the Parties.

Section 10. Indemnification. Each Party agrees to indemnify, defend, and hold harmless the other Party from and against any and all liability, losses, damages, claims or expenses, including reasonable attorneys' fees and court costs, caused by, arising out of, or resulting from the negligence or intentional misconduct of the indemnifying Party.

Section 11. Limitation of Liability. In no event shall either Party be liable to the other Party for incidental, special, indirect, punitive, or consequential damages.

Section 12. Dispute Resolution. If a dispute or controversy arises between the Parties out of or in connection with this Contract, the Parties are obligated to participate in the following dispute resolution efforts: (a) Internal Mediation, (b) Outside Mediation, and (c) Arbitration. Pending the

resolution of any such matter, both Parties shall continue to perform under this Contract to the extent possible. Neither Party will institute any action at law or in equity against the other Party in any court concerning any dispute or controversy that is or could be subject to resolution under this Section.

a. Internal Mediation. The dispute or controversy shall initially be referred to UCAN's Executive Director and the Subscriber Representative. If they cannot reach a mutual agreement within fifteen (15) days following the referral, then the matter shall be referred to UCAN's Executive Committee and the Subscriber's chief executive officer. If a mutual agreement cannot be reached within fifteen (15) days following the referral, or within such other period as mutually agreed upon by the Parties, the Parties shall proceed to the next stage of the dispute resolution process.

b. Outside Mediation. Within fifteen (15) days following the conclusion of the Internal Mediation proceedings, either Party may, upon written notice to the other Party, elect to use Outside Mediation. Outside Mediation is a non-binding resolution procedure whereby each Party presents its case at a hearing before a panel consisting of a senior executive of each of the Parties and a mutually acceptable independent mediator. Each Party shall bear its own costs of mediation, except that the Parties will equally share the costs of the mediator and the related costs of the hearing. The Parties shall choose the mediator within twenty (20) days after service of the notice of mediation. Within (20) days after the Parties have chosen a mediator, the hearing will occur. Each Party may be represented at the hearing by attorneys. If a mutual agreement cannot be reached within fifteen (15) days after the conclusion of the Outside Mediation proceedings, or within such other period mutually agreed upon by the Parties, the Parties shall proceed to the next stage of the dispute resolution process.

c. Arbitration. Within fifteen (15) days following completion of the Outside Mediation proceedings, the Parties shall pursue mandatory arbitration pursuant to the rules of the American Arbitration Association. Any such arbitration shall be held in the Salt Lake City metropolitan area. The Parties shall share the costs of the arbitration equally, subject to final apportionment by the arbitrator. The arbitrator shall apply the laws of the State of Utah, applicable rules and regulations of the FCC, and any other rules, regulations or laws applicable to the dispute or controversy, but shall not have any power to alter, amend, or otherwise affect the terms of this Contract in rendering a decision. To the extent permissible under State law, the decision of the arbitrator shall be rendered within six (6) months of the date the matter was referred to arbitration, shall be final, and shall not be subject to appeal by the Parties. Judgment upon any award rendered by the arbitrator may be entered in a court of competent jurisdiction.

Section 13. Miscellaneous Provisions.

a. Assignments. The Subscriber shall not, without the written approval of UCAN, assign or transfer its rights or obligations under this Contract or permit use of a transceiver on the Communications Network by another entity or person who is not an employee, officer or agent of the Subscriber. UCAN may assign all of its rights to receive payment under this Contract.

b. Benefits/Relationship. This Contract is entered into for the benefit of the Parties to this Contract only and shall confer no benefits, direct or implied, on any third persons. No joint venture or partnership is formed as a result of this Contract.

c. Amendments and Waivers. Any term of this Contract may be amended and the observance of any term of this Contract may be waived only with the written consent of (i) both Parties in the case of an amendment, and (ii) the Party waiving any term or condition hereof in the case of waiver.

d. Severability. In the event any term or condition of this Contract or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other terms, conditions or

applications of this Contract which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Contract are declared severable.

e. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Utah.

UTAH COMMUNICATIONS AGENCY NETWORK

By: _____

Its: _____

Approved by authorized attorney:

THE SUBSCRIBER

By: Brent H. Marshall

Its: Mayor

Approved by authorized attorney:

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SCHEDULE "A"
SERVICE RATES

UCAN will provide the Subscriber with an inventory of units billed with each billing statement.

For Local Government Users:

The initial Service Rate is \$23.25 per month for each transceiver itemized.

For Federal and State Users:

The initial Service Rate is \$28.00 per month for each transceiver itemized.

For Emergency Operations Center (EOC) Users for each transceiver itemized:

The initial Service Rate for radios defined as EOC use is \$25.00 per year.

The initial Service Rate for radios defined as Volunteer Fire portable radios is \$11.63 per month.

The initial Service Rate for radios defined as Search and Rescue is \$11.63 per month.

For Private (as defined by legislation) Users:

The initial Service Rate is \$28.00 per month for each transceiver itemized.