

STATE OF UTAH



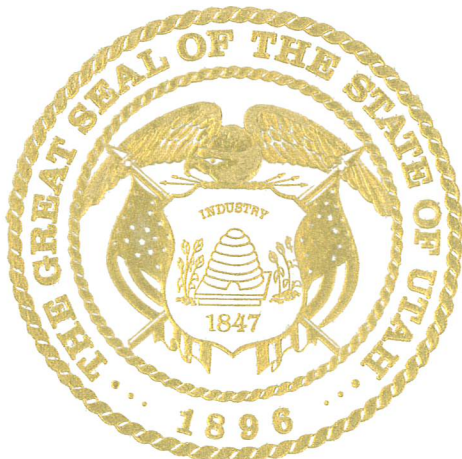
OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE OF CREATION

I, SPENCER J. COX, LIEUTENANT GOVERNOR OF THE STATE OF UTAH, HEREBY CERTIFY THAT there has been filed in my office a notice of creation of the LIGHTHUB COMMUNICATIONS AGENCY (LIGHTHUB), as an interlocal entity, dated September 23, 2019, in substantial compliance with Section 11-13-204, Utah Code Annotated, 1953, as amended.

NOW, THEREFORE, notice is hereby given to all whom it may concern that the attached is a true and correct copy of the notice of creation, referred to above, on file with the Office of the Lieutenant Governor pertaining to the LIGHTHUB COMMUNICATIONS AGENCY (LIGHTHUB), located in Utah County and Davis County, State of Utah.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City, this 4th day of November 2019.



A handwritten signature in black ink, appearing to read "Spencer J. Cox".

SPENCER J. COX
Lieutenant Governor

*****NOTICE OF IMPENDING CREATION OF AN INTERLOCAL ENTITY*****

September 23, 2019

Lt. Governor's Office
Utah State Capitol Complex
P.O. Box 142325
Salt Lake City, Utah 84114-2325

RE: LightHub Communications Agency

Lt. Governor Cox:

This is a notice of the impending creation of the LightHub Communications Agency. This was created under the Utah Interlocal Cooperation Act and is composed of American Fork City and Kaysville City.

Attached to this letter is a copy of the executed Interlocal Cooperative Agreement of LightHub Communications.


The above referenced action meets the requirements applicable to the creating an Interlocal Agency as set forth in Utah Code §11-13-101.

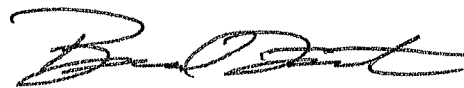
If approved, please send the Certificate of Creation to:

American Fork City
Terilyn Lurker, City Recorder
51 East Main
American Fork, UT 84003

If you have any questions or need further information, please call Ms. Lurker at 801-763-3000.

Sincerely,


Katie Witt
Kaysville City Mayor


Bradley J. Frost
American Fork City Mayor

enclosure

INTERLOCAL COOPERATIVE AGREEMENT
OF
LIGHTHUB COMMUNICATIONS AGENCY
(LIGHTHUB)

Dated as of September 1, 2019

INTERLOCAL COOPERATIVE AGREEMENT

THIS INTERLOCAL COOPERATIVE AGREEMENT (“**Agreement**”) of LIGHTHUB COMMUNICATIONS AGENCY (“**LIGHTHUB**”) dated as of September 1, 2019, is made and entered into by and among the municipalities organized and existing under the laws of the State of Utah that are signatories to this Agreement, which Agreement may be amended from time to time, as provided herein. The municipalities are hereinafter, referred to collectively as “**Members**” or “**parties**” and individually as “**Member**” or “**party**.”

RECITALS

WHEREAS, the Utah Interlocal Cooperation Act (“**Interlocal Cooperation Act**”), Title 11, Chapter 13, Utah Code Annotated 1953, as amended (“**Utah Code**”) provides that two or more public agencies may, by agreement, jointly exercise any power common to the contracting parties, and may share their taxes and other revenues to accomplish their stated objectives; and

WHEREAS, the Municipal Cable Television and Public Telecommunications Services Act (the “**Telecommunications Act**”), Title 10, Chapter 18, Utah Code allows a municipality in the State of Utah to provide to its residents cable television and telecommunications services on a wholesale basis as therein provided; and

WHEREAS, Section 10-8-14, Utah Code, provides that a municipality “may construct, maintain, and operate . . . telecommunications lines [or] cable television lines” subject to the Telecommunications Act; and

WHEREAS, Section 10-18-105(2), Utah Code, exempts, from many of the requirements of

the Telecommunications Act, municipalities that purchase, lease, construct, or equip facilities “that are designed to provide services within the municipality; and that the municipality uses for internal municipal government purposes; or by written contract, leases, sells capacity in, or grants other similar rights to a private provider to use the facilities in connection with a private provider offering cable television services or public telecommunications services”; and

WHEREAS, the Utah Municipal Bond Act (“**Municipal Bond Act**”) Title 11, Chapter 14, Utah Code provides that a municipality may finance an interest in improvements, facilities or property to be owned by the municipality or owned jointly by two or more municipalities, and that a municipality may pledge all or any part of its excise taxes to finance said improvements, facilities or property; and

WHEREAS, the parties have entered into this Agreement for the purpose of (i) creating LIGHTHUB as a separate legal entity; and (ii) acquiring, constructing, owning and operating the Network (as defined herein); and

WHEREAS, this joint effort in creating a wholesale telecommunications utility makes use of the Members’ powers in a mutually advantageous way, including the benefit of economy of scale, which will facilitate services to residences and businesses; government administration; provide more functional buildings and grounds; support educational opportunities, health care, and police and fire protection; and economic development; and

WHEREAS, Article XIII, Section 5 of the Utah State Constitution provides that a political subdivision of the State may share its tax and other revenues with another political subdivision of the State as provided by statute, including Section 11-13-215, Utah Code;

WHEREAS, LIGHTHUB shall utilize the Network as described in **Section 1.11** including each Project as described in **Section 1.14** as defined herein; and

WHEREAS, if other public agencies, including counties, already have authority or are later granted authority similar to that possessed by municipalities, this Agreement encompasses the ability to add them as future Added Members of LIGHTHUB; and

WHEREAS, LIGHTHUB shall provide to its Members and the inhabitants of its Members the

Network and related benefits to be derived from the operation of the Network all of which is acknowledged by the Members; and

WHEREAS, the governing bodies of the current members of LIGHTHUB have been or will be presented and have or will have accepted a final finance plan of LIGHTHUB.

NOW, THEREFORE, for and in consideration of all of the mutual benefits, covenants, and agreements contained herein, the parties hereto mutually agree as follows:

ARTICLE 1

Definitions

The following definitions shall apply to the provisions of this Agreement:

- 1.1. “**Added Members**” means those public agencies listed in **Appendix B** who have joined LIGHTHUB pursuant to **Section 4.4**.
- 1.2. “**Agreement**” means this Interlocal Cooperative Agreement of LIGHTHUB COMMUNICATIONS AGENCY dated as of September 1, 2019, including any subsequent amendments and supplements thereto and all Exhibits, Attachments, or Appendices hereto, which by this reference are incorporated herein.
- 1.3. “**Board of Directors**” or “**Board**” means the governing body of LIGHTHUB.
- 1.4. “**Bonding**” means the issuance of Bonds.
- 1.5. “**Bonds**” means bonds, notes, certificates of participation or other evidences of indebtedness of LIGHTHUB, except as provided herein.
- 1.6. “**Discretionary Revenues**” means funds remaining in LIGHTHUB’s account after LIGHTHUB has paid (i) all Operation and Maintenance Expenses, (ii) all debt service payment obligations with respect to any Bonds issued by LIGHTHUB, and (iii) all funding requirements for those funds and accounts as well as use of funds established with respect to the issuance of Bonds.
- 1.7. “**Effective Date**” means September 1, 2019, the date LIGHTHUB was originally

created.

1.8. “**Excess Revenues**” means any remaining Revenues after Discretionary Revenues have been spent.

1.9. “**Fiscal Year**” means the twelve-month period beginning July 1 and ending June 30.

1.10. “**Members**” means the original municipalities listed in **Appendix A** who were originally involved in the creation and development of LIGHTHUB, and all Added Members listed in **Appendix B** which were later added to LIGHTHUB as herein provided.

1.11. “**Network**” means and includes all physical facilities, wires, and equipment either owned or controlled by LIGHTHUB that is part of an open, carrier class, and scalable telecommunications system on which voice, video, and/or data are stored, accessed, and/or transmitted that makes available transparent high-speed broadband services for internal use by the Members and for use by all homes, businesses, and other entities within the Members’ boundaries on a wholesale basis and between the Members as interconnected facilities.

1.12. “**Operation and Maintenance Expenses**” means all expenses reasonably incurred in connection with the operation and maintenance of the Network, whether incurred by LIGHTHUB or paid to any other entity pursuant to contract or otherwise, necessary to keep the Network in efficient operating condition, including cost of audits hereinafter required, payment of promotional and marketing expenses, payment of insurance premiums, and, generally all expenses, exclusive of depreciation and other non-cash items which under generally accepted accounting practices are properly allocable to operation and maintenance; however, only such expenses as are ordinary and necessary to the efficient operation and maintenance of the Network shall be included.

1.13. “**Operational Matter**” means any issue concerning the Network except as pertains to a project.

1.14. “**Project**” means the financing necessary for the purchase, lease, construction or equipment of facilities as provided in Utah §Code 10-18-105.

1.15. “**LIGHTHUB**” means LIGHTHUB COMMUNICATIONS AGENCY, an interlocal

cooperative entity and political subdivision of the State of Utah duly organized under the Interlocal Cooperation Act. As used in **Article 8**, LIGHTHUB means its officers and Board of Directors, as appropriate.

ARTICLE 2

Purposes

2.1 General Statement. This Agreement is entered into by the Members in order to:

2.1.1. Create LIGHTHUB as a separate legal entity, as provided in the Interlocal Cooperation Act.

2.1.2. If approved by the Members as provided herein, issue Bonds; and construct, lease, operate (or cause the same to occur) and own the Network;

2.1.3. Enter into contracts with consultants, suppliers, contractors, providers, and others to facilitate the accomplishment of the foregoing purposes.

2.1.4. Undertake such actions as are necessary or advisable to effectuate the purposes in this **Section 2.1**.

2.1.5. Entering into contracts, bonding, constructing, and undertaking actions to effectuate the purposes in this **Section 2.1**, may be done in series or phases, all as determined by the Board of Directors.

2.1.6. Upgrade and expand the Network as new development occurs within the boundaries of the Members, subject to **Section 10.9**.

2.1.7. Engage in such other lawful activity in which an interlocal cooperative may become involved and to conduct any and all transactions and activities related thereto.

2.2. Added Members. It is also the purpose of this Agreement to provide, to the extent permitted by law, for additional public agencies to become parties to this Agreement as Added Members as provided in **Section 4.4**.

2.3 LIGHTHUB Boundaries. LIGHTHUB's boundaries shall be and shall include each Member's geographical limits, along with such areas as are necessary to interconnect the Network within each Member. LIGHTHUB's boundaries shall further include the geographical limits of other municipalities with whom LIGHTHUB or a Member may contract pursuant to **Section 10.9**.

ARTICLE 3

Liabilities and Obligations of Members

3.1. Immunity. In entering into this Agreement, the Members do not waive, and are not waiving, any immunity provided to the Members or their officials, employees, or agents by the Utah Governmental Immunity Act, Title 63G, Chapter 7, Utah Code (the "Immunity Act"), or by other law.

3.2. Obligation Imposed by Law. This Agreement shall not relieve any Member of any obligation or responsibility imposed upon it by law. However, to the extent of actual and timely performance thereof by LIGHTHUB, such performance may be offered in satisfaction of such obligation or responsibility.

3.3. Limited Obligation. The obligations entered into by each Member by this Agreement are special limited obligations of each such Member, and nothing herein shall be construed or give rise to a general obligation or liability of any Member or a charge against its general credit or taxing powers.

3.4. Not Debt of Members. Any Bonds issued or incurred by LIGHTHUB shall not constitute a debt of any individual Member, but shall be secured only in the manner set forth therein. There shall be no additional liability or obligation of a Member except as provided in **Section 3.3**.

3.5. Indemnification of Members. LIGHTHUB shall defend, indemnify, save harmless, and exempt the Members, their officers, agents, and employees from and against all claims, suits, legal proceedings, demands, damages, costs, expenses, and attorneys' fees incident to any willful or negligent acts or omissions by LIGHTHUB, its officers, agents, or employees. The Board of Directors shall, prior to the commencement of construction of the Network, provide for risk and liability

coverage in such amounts as it deems necessary to insure against risks arising from the operation of the Network.

ARTICLE 4

Parties to Agreement

4.1. Current and Future Members. Each party to this Agreement, by virtue of this Agreement, contracts with all other Members who are signatories of this Agreement to accomplish the purposes set forth in **Article 2** herein, and, in addition, with such other Added Members as may later join and become signatories of this Agreement pursuant to **Section 4.4**.

4.2. Members. The Members are those Members listed in **Appendix A**, and includes Added Members.

4.3. Added Members. Added Members may adopt and become signatories to this Agreement upon approval of, and pursuant to the conditions established by, the Board of Directors pursuant to **Section 12.13**. The names of the Added Members shall be listed in **Appendix B** with the date on which each Added Member joined LIGHTHUB. **Appendix B** may be updated as Added Members join. Added Members shall have the same rights, power and authority as the Members.

4.4. Dedication of Assets. Members may contract with LIGHTHUB, and vice versa, by virtue of a licensing, indefeasible right of use, lease or other separate agreement described in **Section 10.9**, to permit LIGHTHUB and/or its Members a specified use, right or dedication of that Member's respective asset and other terms detailed therein.

4.5 Right to Contract. Nothing in this agreement shall prohibit LIGHTHUB from contracting with (a) Member(s) with respect to services or development of infrastructure or Project ("**Project**") development including using LIGHTHUB as a pass-through entity by which Members may exchange and contract for mutual benefits one with another. By virtue of joining LIGHTHUB, members agree to participate in all relevant agreements under **Section 10.9**, and will comply with the contract terms thereof.

ARTICLE 5
Term of Agreement

5.1. Term. This Agreement shall run until the latest of (i) fifty (50) years from the Effective Date; (ii) five (5) years after LIGHTHUB has fully paid or otherwise discharged all of its indebtedness; or (iii) or five (5) years after the Network of LIGHTHUB is no longer useful in providing the service, output, product, or other benefit of the Network, unless sooner terminated as provided in **Article 16**.

ARTICLE 6
Creation of LIGHTHUB

6.1. Creation. LIGHTHUB shall become a separate and independent governmental organization on the Effective Date pursuant to the provisions of this Agreement and shall continue its operation and existence pursuant to the provisions of this Agreement.

6.2. Location of Headquarters. LIGHTHUB'S headquarters shall be located in a location determined by the Board of Directors. The Board of Directors may change the location from time to time. The initial location of LIGHTHUB shall be located in the Network Operation Center in American Fork.

ARTICLE 7
Powers of LIGHTHUB

7.1. Common Powers. LIGHTHUB shall have all powers granted by the Interlocal Cooperation Act, Title 11, Chapter 13, Part 2, Utah Code, and is hereby authorized to do all acts necessary to accomplish its stated purposes, including, without limitation, any or all of the following:

7.1.1. To make and enter into contracts.

7.1.2. To acquire, hold, or dispose of property, contributions, grants, and donations of property, funds, services, and other forms of assistance from persons, firms, corporations, and governmental entities.

7.1.3. To sue and be sued in its own name.

7.1.4. Except as otherwise provided in **Section 10.2**, to exercise the power of eminent domain in its own name.

7.1.5. To exercise all powers necessary and proper to carry out the terms and provisions of this Agreement or otherwise authorized by law.

7.1.6. To borrow money or incur indebtedness, liabilities, or obligations; to issue Bonds for the purposes for which it was created; to assign, pledge, or otherwise convey as security for the payment of any such Bonds the revenues and receipts from or for the Network, which assignment, pledge, or other conveyance may rank prior in right to any other obligation except taxes or payments in lieu thereof payable to the State of Utah or its political subdivisions.

7.1.7. Share its revenues with other counties, cities, towns, or local political subdivisions, the state, or a federal governmental agency as permitted by Section 11-13-215, Utah Code.

7.2. Exercise of Powers. All powers of LIGHTHUB shall be exercised pursuant to the terms of this Agreement, its bylaws, and any governing laws.

ARTICLE 8

Responsibilities of LIGHTHUB

8.1. Reimbursement Resolution. LIGHTHUB may reimburse the Members from Bond proceeds for any payment to LIGHTHUB prior to the issuance of the Bonds or any other expenses incurred by LIGHTHUB or its Members as approved by the Board of Directors. The Board of Directors intends to reimburse each Member from the proceeds of initial Bonds.

8.2. Discussions and Negotiations. LIGHTHUB through its Chief Executive Officer, shall enter into discussions, negotiations, and contracts with potential suppliers, manufacturers, service providers, consultants, governmental entities, public officials, and others to gather information helpful to the fulfillment of the purposes of LIGHTHUB.

8.3. Network Operation. LIGHTHUB shall operate the Network in a manner that will benefit, as determined by the Board of Directors, the residents, businesses, and other entities located in each Member and the Members themselves in their internal operations.

8.4. Revenues. LIGHTHUB shall ensure that all covenants and obligations

required in any Bond documents are fulfilled, including the proper funding of debt service reserves, capital improvement accounts, repair and replacement accounts and operations and maintenance accounts. To accomplish those objectives, LIGHTHUB shall deposit when received all revenues (“**Revenues**”) into a revenue account, from which LIGHTHUB shall pay (i) all Operation and Maintenance Expenses, (ii) all debt service payment obligations with respect to any Bonds issued by LIGHTHUB, and (iii) all funding requirements for those funds and accounts as well as use of funds established with respect to the issuance of Bonds. Except as otherwise provided in **Section 9.2.**, after the payment of items (i) through (iii) in this **Section 8.4.**, the remaining Revenues (“**Discretionary Revenues**”) may be used to pay (x) costs of construction of the Network and (y) costs of redeeming Bonds all at the discretion of the Board. Any remaining Revenues (“**Excess Revenues**”) may be paid to the Members as provided in **Section 8.5.**

8.5. Excess Revenue Sharing. A majority of the Members participating in a Project (“**Project**”) shall determine the equitable distribution of Excess Revenues, if any. Until construction of the Network is substantially completed within the boundaries of a Project, there shall be no distribution of Excess Revenues from that Project to the Members participating in that Project.

If any Excess Revenues are attributable to the operation of the network, the Excess Revenues may be distributed to the Members on a pro-rata basis based upon ratio of connected subscribers to the Network. The decision to distribute the Excess Revenues shall be determined by a majority vote of the Members with one vote per Member. In the event of a tie vote, the decision whether to distribute shall be made by the Chief Executive Officer. In any case, Excess Revenues under this Section shall be distributed not less than bi-annually.

8.6. Registration. LIGHTHUB shall annually renew their registration with the lieutenant governor’s office on or before one year after the day on which the lieutenant governor issues the notice of registration or renewal in compliance with Section 67-1a-15, Utah Code.

8.6.1. The registration or renewal of LIGHTHUB shall include the legal document which created LIGHTHUB, any geographic boundaries of LIGHTHUB, name of this interlocal entity, description of the government type and function, the website, physical address, phone number and contact information of the primary

contact for LIGHTHUB, the names of the Members of LIGHTHUB, the sources of revenue for LIGHTHUB, and any assessment area of LIGHTHUB.

8.6.2. LIGHTHUB shall keep and comply with registration and renewal notices as required by the lieutenant governor in Section 67-1a-15, Utah Code.

ARTICLE 9 Voting Rights of Members

9.1. Voting with Respect to Operational Matters. Except as provided in **Section 9.2**, each Member shall be entitled to one vote for all Operational Matters (“**Operational Matter**”).

9.2. Voting Associated With Project Finance. When a vote is required with respect to a Project, only those Members participating in a given Project shall vote on matters pertaining to that Project (“**Project**”). If a Project contains multiple members, each member voting with respect to that project shall have one vote.

ARTICLE 10 Responsibilities of Members

10.1. Right of Way and Easement Use Granted. Each Member hereby grants Right of Way and Easement Use approval to LIGHTHUB, any other interlocal cooperative agency, any authorized service provider who may contract with LIGHTHUB, any authorized service provider of LIGHTHUB and/or other interlocal cooperative agency using the Network to provide services within that Member’s boundaries. By contract, each service provider shall be required to pay a Member any tax, franchise fee, or other charge that would be applicable to the provider if the provider had obtained a separate franchise and/or any Right of Way and Easement Use agreement from that Member and to abide by all requirements applicable to any existing franchise and Right of Way and Easement Use agreement providing the same telecommunications service. Upon LIGHTHUB’s request, each Member shall provide a copy of its current franchises and/or Right of Way and Easement Use agreements to LIGHTHUB.

10.2. Approval to Build Network. Each Member shall allow LIGHTHUB to build the Network in its boundaries, including the granting of any necessary excavation permits. However, LIGHTHUB agrees to abide by each Member’s ordinances and shall require any contractor hired to

install the Network to comply with each Member's ordinances. LIGHTHUB further agrees that it will not exercise its power of eminent domain against a Member's property without that Member's prior consent, which may be withheld in such Member's sole discretion.

10.3. Annual Dues. Each Member agrees to pay any annual dues to LIGHTHUB, as approved by at least a two-thirds vote of the Board of Directors, subject to the Member's budgetary processes and approvals, for the administration of the LIGHTHUB during said fiscal year.

10.4. Working Capital. Each Member agrees to pay any working capital assessments to LIGHTHUB, as approved by at least a two-thirds vote of the Board of Directors, subject to the Member's budgetary processes and approvals, for the administration of the LIGHTHUB during said fiscal year. In the event a member city fails to budget annual dues or working capital assessments to LIGHTHUB as adopted by the Board of Directors, then that Members use of the operational components of LIGHTHUB may be limited or curtailed as determined by the Chief Executive Officer.

10.5. Review by Attorney. Each Member warrants that this Agreement and subsequent agreements with subcontractors for services or facilities are approved by the Member's governing body vested with executive power and reviewed by the attorney authorized to represent the Member in accordance with Section 11-13-202.5, Utah Code.

10.6. Filing of Agreement. Upon execution of an agreement to approve the creation of an interlocal entity, the governing body of a member of the interlocal entity shall file the agreement within 30 days after the date of the agreement with the lieutenant governor.

10.6.1 Once the lieutenant governor's office has issued a certificate of creation for the interlocal entity, that member shall file the certificate of creation, a certified copy of the creation of the interlocal entity, and any description outlined in 8.6.1 with the recorder of the county in which the interlocal was formed.

10.6.1.1 If the interlocal entity is located with the boundaries of more than a single county, the member shall file the same documents in 10.5.1 with the recorder of every county in which a member of the interlocal resides.

10.7. Efficacy. Members agree and understand that the Agreement takes effect after the Agreement is filed with each Member's records keeper within their respective municipality boundaries.

10.8. Formation. Members agree to abide by requirements of interlocal entity formation as set forth in Title 11, Chapter 13 of the Utah Code Annotated.

10.9. Separate Agreements. LIGHTHUB may, from time to time, enter into separate agreements with Members and/or other municipalities which comply with Section 10-18-105, Utah Code. When a Member avails itself of any side agreement between LIGHTHUB and another Member, said payments shall pass through LIGHTHUB to the other Member, and shall not constitute Revenues and/or Excess Revenues as defined in **Sections 8.4** or **8.5** under this Agreement. Payments shall be recorded within the budget and records of LIGHTHUB as such. These payments shall be delivered to the intended recipient Member within thirty (30) days of receipt. By way of example, LIGHTHUB may enter into an agreement for the use of the American Fork Network Operation Center and American Fork's Mid-Mile Fiber between Spanish Fork and downtown Salt Lake City.

ARTICLE 11 Board of Directors

11.1. Composition of Board. LIGHTHUB shall be governed by a Board of Directors, which is hereby established and which shall be composed of a representative from each Member. The Board representative from each Member shall be appointed by the Mayor or Chairman of the Member entity with the advice and consent of the Member's governing body after which the Board representative will be sworn in by the Chief Executive Officer as described in **Section 12.2**. The Board representative may send an alternate to act in his or her place at a Board or Executive Committee meeting, except if the Board representative is the Chair or a Vice-Chair, then that Board representative's responsibilities for conducting the meeting or signing documents shall fall to the next Vice-Chair in line.

11.2. Executive Committee. The Board of Directors may establish an Executive Committee of not more than five members of the Board and may delegate to the Executive Committee such powers and responsibilities as the Board deems appropriate, as provided in **Section 12.14**. The composition of, the manner of selection of, the voting and the powers and responsibilities of the

Executive Committee shall be as are established in this Agreement.

11.3. Voting. In all matters voted upon by the Board of Directors, each member of the Board shall have and may cast the same number of votes as the Member which the board member represents is entitled to cast under **Article 9**. If, for any provision regarding voting in this Agreement, there are insufficient Member votes to constitute a two-third's majority, the Chief Executive Officer may vote on this matter as a tie-breaking voting Member.

11.4. Meetings. The Board shall hold at least one regular meeting annually. The Board may hold special meetings as provided by law. Meetings may be conducted by telephonic or other technological means of communication.

11.5. Minutes. The Chief Executive Officer shall cause all meetings of the Board to comply with the Utah Open and Public Meetings Act, Title 52, Chapter 4, Utah Code.

11.6. Quorum. The presence of the Board members entitled to cast a majority of the votes of the entire Board shall constitute a quorum for the transaction of business. Unless otherwise requiring a two-thirds vote, a majority vote of the total votes of the quorum present shall constitute action by the Board.

11.7. Notice. Notice to Board members shall be sufficient if delivered in writing, by courier, U.S. Mail, fax, or by e-mail to the designated representative of the respective Member, at the address, fax number, or e-mail address of record, as may be amended from time to time.

11.8. Duty to Inform. The Board, through the Chief Executive Officer, shall have an ongoing duty to inform the Members of LIGHTHUB business and, accordingly, shall cause a copy of all materials (unless they are not public records; in which case, notice of their existence shall be given) delivered in the manner it deems appropriate to Board members for meetings of the Board, including minutes of past meetings, to be delivered to the Chair of each Member's governing body and to each Member's legal counsel. The Chief Executive Officer shall promptly respond to all requests for information made by any Member.

ARTICLE 12

Powers and Duties of the Board of Directors

The Board of Directors shall have the following powers and duties:

12.1. Exercise of Powers of LIGHTHUB. Except as otherwise authorized or delegated pursuant to this Agreement, the Board of Directors shall for and on behalf of LIGHTHUB, exercise all powers of LIGHTHUB set forth in **Article 7** herein.

12.2. Appointments. The Board of Directors shall appoint a Chief Executive Officer and the Chief Executive Officer shall appoint a Deputy Director and a Secretary/Treasurer, subject to confirmation by at least a two-thirds vote of the Board.

12.3. Budget. The Board of Directors shall cause to be prepared the operating budget of LIGHTHUB for each Fiscal Year.

12.4. Committees. The Board of Directors shall have the authority to appoint committees.

12.5. Reporting. The Board of Directors shall receive and act upon reports of the Executive Committee and of the Chief Executive Officer, and the Chair of the Committees.

12.6. Hiring Employees. The Board of Directors shall have the power to authorize the Chief Executive Officer to hire such persons as the Board deems necessary for the administration of LIGHTHUB.

12.7. Supervision. The Board of Directors shall have the general supervisory and policy control over the activities of the Chief Executive Officer.

12.8. Funds. The Board of Directors shall provide for the investment and disbursement of funds and their periodic review.

12.9. Audit. The Board of Directors shall provide for a certified annual audit of the accounts and records of LIGHTHUB, which audit shall conform to generally accepted auditing standards. Such annual audit shall be open for inspection by each Member representative at all reasonable times.

12.10. Bylaws. The Board of Directors shall have the authority to adopt bylaws and thereafter amend the bylaws. The adoption and any amendments shall be by a two-thirds (2/3) vote of the Board. Each Member shall receive a copy of the bylaws.

12.11. Rules of Board. The Board of Directors shall have the authority to establish rules governing its own conduct and procedure not inconsistent with the bylaws.

12.12. Added Members. By a two-thirds vote of the Members, the Members shall have the authority to admit Added Members on such terms and conditions as they deem appropriate. Added Members shall have assumed in writing any and all of the obligations under this Agreement.

12.13. Other Powers. The Board of Directors shall have such other powers and duties as are necessary for the operation or dissolution and winding up of LIGHTHUB and for the implementation of the bylaws subject to the limits of this Agreement and the bylaws.

12.14. Delegation to Executive Committee. The Board of Directors may, through LIGHTHUB's bylaws, delegate all of its powers and duties outlined in this Agreement to the Executive Committee, except for the following:

12.14.1. The election of the Chair and Vice Chairs of the Board.

12.14.2. The election of the group representatives to the Executive Committee.

12.14.3. The powers to adopt, modify, and approve changes in the bylaws and recommend proposed changes to the Agreement that must be approved by the Members' governing bodies.

12.14.4. The power to terminate or dissolve LIGHTHUB.

12.15. Records. The records of LIGHTHUB shall be governed by the "Government Records Access and Management Act," Section 63G-2-101, et seq., Utah Code, to the extent applicable, except that the governing body and/or legal counsel of each Member shall have full access to inspect all records and copy public records of LIGHTHUB.

ARTICLE 13

Officers, Agents, and Personnel

13.1. Chief Executive Officer. The Chief Executive Officer shall be appointed by the Board of Directors. The Chief Executive Officer shall, subject to the control of the Board of Directors, have general day-to-day supervision, management, administration, direction, and control of the business and officers of LIGHTHUB and shall have such other and related duties as may be prescribed by the Board. When LIGHTHUB is required or authorized to perform a function in this Agreement, or the law, the Chief Executive Officer or the person designated by the Chief Executive Officer has the power to perform the function.

13.2. Secretary/Treasurer. The Secretary/Treasurer shall be appointed by the Chief Executive Officer and confirmed by the Board. The duties of the Secretary/Treasurer are set forth in **Articles 14** and **15**.

13.3. Other Officers, Agents, and Personnel. The Chief Executive Officer shall have the power to hire or appoint such other officers, agents, and personnel as are budgeted for by the Board of Directors and as may be necessary to carry out the purposes of this Agreement.

13.4. Removals and Resignations; Filling of Vacancies; Etc. Provisions for removal and resignation, and provisions for filling vacancies, etc., shall be as established by the Chief Executive Officer unless otherwise established in this Agreement.

ARTICLE 14

Accounts and Records

14.1. Annual Budget. The Board of Directors shall annually adopt an operating budget pursuant to **Section 12.3**.

14.2. Funds and Accounts. The Secretary/Treasurer shall establish and maintain such funds and accounts as may be required by governmental accounting practices and the State's fiscal procedures laws. Financial records of LIGHTHUB shall be open to inspection at all reasonable times by Members' representatives and shall be open public records if so required by Utah State law.

14.3. Secretary/Treasurer's Report. Within ninety (90) days after the close of each

Fiscal Year, the Secretary/Treasurer shall give a complete written report of all financial activities for the immediate past Fiscal Year to the Board.

14.4. Annual Audit. The Board of Directors shall provide for a certified annual audit of the accounts and records of LIGHTHUB, as required by **Section 12.9**.

ARTICLE 15

Responsibility for Monies

15.1. Secretary/Treasurer's Responsibilities. The Secretary/Treasurer shall have custody of and shall disburse LIGHTHUB's funds. The Secretary/Treasurer shall have the authority to delegate the signatory function of Secretary/Treasurer to such persons as are authorized by the Board of Directors.

15.2. Bonds. A fidelity and treasurer's bond shall be required of all officers, agents, and personnel authorized to disburse funds of LIGHTHUB. The cost of such bond shall be paid by LIGHTHUB.

15.3. Financial Records. The Secretary/Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct financial records, including accounts of its assets, liabilities, receipts, and disbursements, and shall have such other duties as are provided for in the bylaws.

ARTICLE 16

Dissolution of LIGHTHUB

16.1. Outstanding Indebtedness. So long as there are any outstanding Bonds of LIGHTHUB, it shall remain a separate legal entity with all of the power and duties set forth in this Agreement and all of the responsibilities, covenants, and obligations required in the Bond documents.

16.2. Dissolution of LIGHTHUB. If there are no outstanding Bonds, LIGHTHUB may be dissolved with two-thirds vote of the Members.

16.3. Power of Board. The Board of Directors is vested with all powers necessary for the purpose of winding up and dissolving the business affairs of LIGHTHUB.

16.4. Division of Assets. Upon dissolution and after payment in full of all outstanding Bonds and other LIGHTHUB obligations, the Board of Directors shall equitably disburse the assets of LIGHTHUB to the then current Members. The disbursement shall be done according to the following principles:

16.4.1. Any outstanding agreements with service providers shall be honored.

16.4.2. To the extent possible, each current Member shall receive ownership of that portion of the Network within its boundaries, at no additional cost to each current Member.

16.4.3. After deducting costs, any cash or other assets jointly shared shall be disbursed, or interests deeded, *pro rata*, according to the revenue generated from each Member's jurisdiction.

ARTICLE 17 Other Provisions

17.1. Confidentiality. The Board of Directors shall take such steps as they deem necessary to protect and keep confidential appropriate information received or kept by LIGHTHUB in accordance with law. The Members shall protect and keep confidential information kept or received by LIGHTHUB during the term of this Agreement and after the termination of their membership in LIGHTHUB pursuant to this Agreement or other policies adopted by the Board and consistent with law.

17.2. Status of Members' Employees. When members of the Board of Directors are acting on behalf of LIGHTHUB, they shall be considered to be acting on behalf of their respective public agency employer within the meaning of the Governmental Immunity Act of Utah, and thus, shall be entitled to indemnification and representation so long as they meet the requirements of the Governmental Immunity Act of Utah.

17.3. Prohibition Against Assignment. No Member may assign any right, claim, or interest it may have under this Agreement; and no creditor, assignee, or third party beneficiary of any Member shall have any right, claim, or title to any part of the Network share, interest, fund, or other asset of LIGHTHUB.

17.4. Severability Clause. In the event that any article, provision, clause, or other part of this Agreement should be held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability with respect to other articles, clauses, applications, or occurrences, and this Agreement is expressly declared to be severable.

17.5. Complete Agreement. The foregoing constitutes the full and complete Agreement of the parties concerning the subject matter hereof. There are no oral understandings or agreements not set forth in writing herein. Documents attached hereto or made pursuant to this Agreement are incorporated in full by reference. In the event of a conflicting provision in this Agreement such documents, the terms of this Agreement shall prevail.

17.6. Amendment. This Agreement may be amended at any time by the written approval of two-thirds of all Members.

17.7. Governing Law. This Agreement shall be governed according to the laws of the State of Utah.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by authorized officials thereof on the date indicated on the signatory pages in the form shown in **Appendix C**.

Appendix A

Members

American Fork City

Kaysville City

Appendix B

Added Members

Appendix C

Authorized Signatories for Members

And Signatory Page

LIGHTHUB, by resolution of its legislative body adopted on SEPT 20, 2019, approved the execution of the Interlocal Cooperative Agreement of LIGHTHUB COMMUNICATIONS AGENCY originally dated as of September 1, 2019, and amended and restated as of SEPT 20, 2019, and consisting of pages 1 through 21, including Appendices A, B, and C.

KATIE Witt
Printed Name of Authorized Signatory

Katie Witt
Signature

MAYOR / CHAIR OF LIGHTHUB
Title

ATTEST:

Brad Frost
Signature

Name: Brad Frost
Title: Mayor AF / Vice-Chair Lighthub

APPROVED AS TO PROPER FORM AND COMPLIANCE WITH APPLICABLE LAW:

Camille Bohman
Authorized Attorney Representing the Public Agency

FILING OF AGREEMENT:

Pursuant to the Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Ann. 1953, as amended, the keeper of the records for the public agency hereby certifies that this Agreement has been filed with him or her.

Terilyn Lurker
Signature
Name: Terilyn Lurker
Title: City Recorder

LIGHTHUB COMMUNICATIONS AGENCY

RESOLUTION NO. 19-01

A RESOLUTION AUTHORIZING AND APPROVING BYLAWS

WHEREAS, American Fork City and Kaysville City have entered into an Interlocal Cooperative Agreement establishing LightHub Communications Agency (“LIGHTHUB”); and,

WHEREAS, the Board of Directors of LIGHTHUB now wants to approve bylaws to further govern the administration of LIGHTHUB; and

WHEREAS, the proposed bylaws are attached hereto as Appendix A; and

WHEREAS, it is the best interest of LIGHTHUB to establish bylaws for the proper administration and governance of the Agency.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of LIGHTHUB as follows: Bylaws in substantially the form hereto, as Appendix A are hereby approved, subject only to only such ministerial and grammatical changes as may be discovered and corrected; and the Chair of the Board of Directors is hereby authorized to sign the bylaws, which signature shall automatically make the bylaws effective.

PASSED AND APPROVED, AND MADE EFFECTIVE THIS 3rd DAY OF OCTOBER, 2019.

Chair Katie Witt

A handwritten signature in cursive script, appearing to read "Katie Witt", is written over a horizontal line.

ATTEST:

A handwritten signature in cursive script, appearing to read "Brad Frost", is written over a horizontal line.

Vice-Chair Brad Frost (Acting in the absence of the Secretary/Treasurer)

Appendix A

**BYLAWS
OF THE
BOARD OF DIRECTORS
OF THE
LIGHTHUB COMMUNICATIONS AGENCY**

Effective as of Oct. 3, 2019



KW 1607719.4

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**BYLAWS
OF THE
BOARD OF DIRECTORS
OF THE
LIGHTHUB COMMUNICATIONS AGENCY**

Pursuant to authority granted to it in accordance with the Interlocal Cooperative Agreement of LightHub Communications Agency dated as of September 1, 2019, by various municipalities within the State of Utah, the Board of Directors of the LightHub Communications Agency (“LIGHTHUB”) hereby adopts the following as Bylaws:

ARTICLE I. ORGANIZATION AND ADMINISTRATION

Section 1.1. The administration of LIGHTHUB shall be vested in a Board of Directors, and a Chief Executive Officer.

Section 1.2. The Board of Directors shall establish general guidelines for the functioning of LIGHTHUB in conjunction with the Interlocal Cooperative Agreement dated September 1, 2019, and Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Ann. 1953, and shall have budgetary control over LIGHTHUB and its activities.

Section 1.3. The Board of Directors shall be responsible to establish guideline, policies and operations of LIGHTHUB, as executed and implemented by the Chief Executive Officer and subordinate employees.

Section 1.4. The Chief Executive Officer is the chief executive officer of LIGHTHUB and, as specified herein, is responsible to implement and carry out the policies and programs specified by the Board of Directors.

ARTICLE II. BOARD OF DIRECTORS

Section 2.1. Composition of the Board of Directors and the Executive Committee.

- (a) The Board of Directors shall be composed of one representative from each member of LIGHTHUB (a “Member”).
- (b) At the first regularly scheduled meeting of the Board of Directors each year, or as soon thereafter as is reasonably practical, The Board of Directors shall elect from among the board members a person to serve in each of the following positions: Chair, First Vice-Chair and Second Vice-Chair. At its discretion, on an annual basis, the Board of Directors may also elect a Third Vice-Chair, and Fourth Vice-Chair. Consideration shall be given to rotate

these positions through members of the Board of Directors while maintaining continuity in the Executive Committee. The designation shall be effective for the calendar year and until a successor is selected and approved by the Board of Directors.

- (c) There is created an Executive Committee of the Board of Directors comprised of the Chair, the First Vice-Chair, and the Second Vice-Chair, and, if such positions are elected by the Board of Directors, the Third Vice-Chair and the Fourth Vice-Chair. The Executive Committee shall have such responsibilities as are delegated to them by the Board of Directors.

Section 2.2. Election or Appointment to the Board of Directors. The selection of its representatives on the Board of Directors shall be made by each Member, provided that the representative of each Member shall be a current elected official or employee of the Member during his or her term of service on the Board of Directors. Each Member shall designate the name and address of its representative to the Board of Directors in writing. Any vacancy on the Board of Directors shall be promptly filled by appointment by the Member.

Section 2.3. Terms of the Directors. Each Director shall serve for the period designated by the Member he or she represents.

Section 2.4. Vacancies. A vacancy or vacancies in the Board of Directors shall be deemed to exist by reason of death, resignation, expiration of term, or removal by the Member. Each Member shall be responsible to promptly fill the vacancy of its Director and to notify the Board of Directors of the new Director's name, address, email address and telephone number.

Section 2.5. Meetings of the Board of Directors.

- (a) The Board shall set a time and place for at least one regular meeting annually, notice of which shall comply with the Utah Open and Public Meetings laws, Title 52, Chapter 4, Utah Code Annotated 1953, as amended. Meetings may be held by telephonic or other technological means of communication provided such meetings comply with Title 52, Chapter 4, Utah Code Annotated 1953, as amended.
- (b) Special meetings may be called by the Chairperson, the Chief Executive Officer or by Directors representing a majority of the voting rights of the Board. Notice of these special meetings shall be mailed or emailed to each Member at least ten (10) days in advance.
- (c) The Chief Executive Officer shall cause written minutes of regular, adjourned regular, special and adjourned special meetings to be kept and

shall, as soon as possible after each Board meeting, cause a copy of the minutes to be forwarded to each Director.

Section 2.6. Quorum. The presence of Directors representing a majority of the Board shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn when necessary. A vote by members representing the majority of the voting rights of the Board shall constitute action by the Board.

Section 2.7. Powers and/or Duties of the Board of Directors. The Board of Directors shall have the following powers and/or duties:

- (a) The Board of Directors shall appoint a Chief Executive Officer and such other officers as it deems appropriate;
- (b) The Board of Directors shall cause to be prepared LIGHTHUB's capital and operating budgets for each fiscal year.
- (c) The Board of Directors shall have the authority to appoint committees;
- (d) The Board of Directors shall receive and act upon reports of appointed committees and of the Chief Executive Officer;
- (e) The Board of Directors shall have the power to hire such persons as the Board deems necessary for LIGHTHUB's administration, including the "borrowing" of employees from one or more of the Members, subject to the approval of the Member. Any Member whose employee is so "borrowed" according to this provision shall be reimbursed by LIGHTHUB for that employee's fully loaded costs for time spent or services rendered on behalf of LIGHTHUB;
- (f) The Board of Directors shall have the general supervisory and policy control over the day-to-day decisions and administrative activities of the Chief Executive Officer;
- (g) The Board of Directors shall provide for a certified, annual audit of LIGHTHUB's accounts and records, which audit shall conform to generally accepted auditing standards. Such audit of the accounts and records shall be made by a Certified Public Accountant(s) and shall be open to any inspection at all reasonable times by representatives of Members. Any audit costs, including contracts with, or employment of, Certified Public Accountants, in making an audit shall be borne by LIGHTHUB and shall

be included within the term “administrative costs”;

- (h) The Board of Directors shall receive and review periodic accountings of all LIGHTHUB funds;
- (i) The Board of Directors shall have the authority to establish criteria for adding members, as further detailed in Article VIII of these Bylaws;
- (j) The Board of Directors shall have the authority to establish rules governing its own conduct and procedure not inconsistent with these Bylaws;
- (k) The Board of Directors shall have the authority to amend these Bylaws by a two-thirds (2/3) vote of the Board;
- (l) The Board of Directors shall have such other powers and duties as are necessary for the operation or dissolution and winding up of LIGHTHUB and for the implementation of these Bylaws subject to the limits of the Agreement and these Bylaws;
- (m) The Board of Directors shall have the authority to establish standing committees as deemed appropriate. The Board of Directors shall also have the authority to establish ad hoc committees deemed appropriate. The Chair of the Board shall have the authority to appoint members to the various committees.
- (n) The Board of Directors shall have the authority, but not the obligation, to establish a Procurement Policy to govern the purchase of equipment, materials, goods, services and the like.
- (o) The Board of Directors shall have the authority, but not the obligation, to establish a Travel Policy to govern travel by LIGHTHUB staff.
- (p) The Board of Directors shall have the authority, but not the obligation, to establish a Records Classification and Retention Policy consistent with the requirements of the Utah Government Records Access and Management Act, Title 63, Chapter 2, Utah Code Annotated 1953, as amended.
- (q) The Board of Directors shall have the authority, but not the obligation, to establish a Personnel Policy to govern salary and benefits for LIGHTHUB staff.

Section 2.8. Powers and Duties of the Chair of the Board. The Chair will preside at all meetings of the Board of Directors and the Executive Committee and shall be an ex-officio

member of all the standing committees and shall have the general powers and duties as may be prescribed by the Board of Directors, the Interlocal Cooperative Agreement of LIGHTHUB and/or the Bylaws. In addition, the Chair of the Board of Directors shall:

- (a) Have a vote in all Board of Directors proceedings.
- (b) Execute, on behalf of the Board of Directors, all resolutions of the Board of Directors, and, where required and not otherwise within the authority of the Chief Executive Officer, contracts and other written obligations of LIGHTHUB.
- (c) Attend and, if appropriate, preside at ceremonial activities (including, but not limited to, ribbon-cuttings, open houses, receptions) in which ceremonial representation is needed or sought.
- (d) Where designated by the Board of Directors, represent LIGHTHUB in all its external relationships with the State, the County, other political subdivisions, and such civic, social and fraternal organizations, including the serving on appointed boards, committees, councils, and commissions as provided by law or to which an official, non-technical representative from LIGHTHUB is sought or needed, unless the Board of Directors directs otherwise.
- (e) Be a spokesperson for the Board of Directors, unless the Board of Directors directs otherwise. When the Chair acts as spokesperson for the Board of Directors, he or she should speak for the majority of the Board of Directors, when the Chair is speaking in his capacity as an individual member of the Board of Directors, he or she should clearly identify that limited capacity.
- (f) Represent the will of the Board of Directors.
- (g) The Chair shall have no administrative or executive duties. The Chair shall not attempt to advise or direct the Chief Executive Officer or any of the subordinates of the Chief Executive Officer in the performance of the assigned duties of the Chief Executive Officer or the subordinate.

Section 2.9. First Vice-Chair of the Board of Directors. The First Vice-Chair of the Board of Directors shall act during the period of the Chair's absence, or inability or refusal to act. The designation shall be effective for the calendar year and until a successor First Vice-Chair is selected and approved by the Board of Directors. The duties of the First Vice-Chair shall be limited to presiding over the meetings of the Board of Directors and to signing official documents and other writings acted upon within that meeting over which he or she presided or such writings as

are presented to him or her for signature during the period he or she is so acting. The First Vice-Chair shall act only in cases of the inability or refusal to act or in the absence of the Chair. The determination as to the inability or refusal to act shall be made by vote of the Board of Directors. The Chair may request any member of the Board of Directors to represent LIGHTHUB outside of meetings of the Board of Directors. When no designee is appointed by the Chair, the First Vice-Chair shall represent LIGHTHUB. If no member of the Board of Directors is able to represent the Chair (other than in official, Board of Directors meetings) the Chief Executive Officer or his designated staff member shall do so.

Section 2.10. Second Vice-Chair of the Board of Directors. The Board of Directors shall elect one of its members to act as the Second Vice-Chair of the Board of Directors, to act during the period of the Chair's or First Vice-Chair's absence, or inability or refusal to act and shall have the same authority as the First Vice-Chair.

Section 2.11. Third Vice-Chair of the Board of Directors. The Board of Directors shall elect one of its members to act as the Third Vice-Chair of the Board of Directors, to act during the period of the Chair's, First Vice-Chair's, or Second Vice-Chair's absence, or inability or refusal to act and shall have the same authority as the First Vice-Chair.

Section 2.12. Fourth Vice-Chair of the Board of Directors. The Board of Directors shall elect one of its members to act during the period of the Chair's, First Vice-Chair's, Second Vice-Chair's or Third Vice-Chair's absence, or inability or refusal to act and shall have the same authority as the First Vice-Chair.

Section 2.13. No Compensation. The Board of Directors shall serve without compensation from LIGHTHUB.

Section 2.14. Limitations of Actions and Authority of Board of Directors. No Director shall direct or request the appointment of any person to, or his removal from office. No Director shall interfere in any way with the performance by the appointed officers of their duties. The Board of Directors shall not give orders to any subordinate of the Chief Executive Officer, either publicly or privately, but may make suggestions and recommendations to the Chief Executive Officer. Nothing in this Section 2.14 shall prevent the Board of Directors from appointing committees of its own members or of citizens to conduct investigations into the conduct of any officer, department, or agency of LIGHTHUB, or any matter relating to LIGHTHUB's welfare, and delegating to these committees such powers of inquiry as the Board of Directors may deem necessary.

Section 2.15. Parliamentary Procedure. When not in conflict with the Interlocal Cooperation Act or these Bylaws, the latest published edition of Robert's Rules of Order shall

govern the meetings of the Board of Directors.

ARTICLE III. CHIEF EXECUTIVE OFFICER

Section 3.1. Appointment of Chief Executive Officer. The Board of Directors shall appoint the Chief Executive Officer. The Chief Executive Officer shall be appointed solely on the basis of his or her ability, integrity and prior experience relating to the duties of the office, including but not limited to, abilities of public administration and executive leadership, and shall possess managerial capabilities as in the opinion of the Board of Directors befit him or her to provide professional direction to LIGHTHUB.

Section 3.2. Powers and duties of the Chief Executive Officer. Subject to the general supervision of the Board of Directors, the Chief Executive Officer shall:

- (a) Faithfully execute and enforce all applicable laws, rules and regulations.
- (b) Carry out the policies and programs established by the Board of Directors.
- (c) Organize and direct the management of the executive affairs of LIGHTHUB in a manner consistent with the Interlocal Cooperation Act and these Bylaws and the policies established by the Board of Directors.
- (d) Examine and inspect the books, records and official papers of any office, department, agency, board or commission of LIGHTHUB, and make investigations and require reports from personnel.
- (e) Submit to the Board of Directors plans and programs relating to the development and needs of LIGHTHUB, and annual and special reports concerning the financial, administrative and operational activities of LIGHTHUB offices, departments, agencies, boards and commissions, together with his or her evaluation and recommendations relating to them.
- (f) Attend all meetings of the Board of Directors and take part in its discussions and deliberations, but without the right to vote.
- (g) Appoint, with approval by the Board of Directors, an acting Chief Executive Officer to serve in his or her absence or temporary incapacity, to perform the powers and duties provided for in these Bylaws.
- (h) Recommend to the Board of Directors for adoption such measures as he or she deems necessary or expedient.
- (i) Prepare a financial estimate of the annual budget and advise the Board of

Directors of the financial condition and needs of LIGHTHUB.

- (j) Notify the Board of Directors of any emergency existing in any department.
- (k) Execute such contracts as are necessary for the good order and functioning of LIGHTHUB, provided the expenditures pursuant to such contracts are within the appropriations contained within the appropriate budget, as adopted by the Board of Directors.
- (l) Implement and administer, within the budgetary restraints as established by the Board of Directors, a plan for the compensation of LIGHTHUB employees, including, but not limited to, a pension system and a system for health and accident care coverage for employees and their dependents in a manner consistent with the Personnel Policy approved by the Board of Directors.
- (m) Approve such expenditures made for official LIGHTHUB business, provided such expenditures are within the appropriations contained within the appropriate budget, as adopted by the Board of Directors.
- (n) Discharge any other duties specified or designated by the Board of Directors.
- (o) Investigate and examine or inquire into the affairs or operation of any department, division or office.
- (p) Examine all proposed contracts to which LIGHTHUB may be party.
- (q) Prescribe rules and regulations, not inconsistent with the Interlocal Cooperative Agreement or these Bylaws, to insure efficiency and effectiveness in the operations of LIGHTHUB.

The Chief Executive Officer's responsibilities to the Board of Directors are to identify policy issues, recommend policy to the Board of Directors, guide, educate and train subordinates, implement the policies of the Board of Directors and evaluate the overall administration within LIGHTHUB, suggest policy needs and solutions, carry out the will of the Board of Directors expressed by resolution, provide information to the Board of Directors and support the decisions of the Board of Directors. The Chief Executive Officer may be an employee or hired under contract as determined by the Board of Directors to be in the best interests of the LIGHTHUB.

Section 3.3. Working time. The Chief Executive Officer shall spend such time in the

performance of his or her duties as is necessary to accomplish them.

Section 3.4. Removal of Chief Executive Officer. The Chief Executive Officer serves at the pleasure of the Board of Directors. The Board of Directors may, at its pleasure, by majority vote, remove the Chief Executive Officer.

ARTICLE IV. FINANCIAL CONTROLS AND PROCEDURES

Section 4.1. Checks. All checks, drafts or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of LIGHTHUB shall be signed by the Treasurer/Secretary and one other officer of LIGHTHUB or any other designated officer or agent of LIGHTHUB and in such manner as shall be determined by resolution of the Board of Directors.

Section 4.2. Deposits. All LIGHTHUB funds not otherwise employed shall be deposited to LIGHTHUB's credit in such banks, trust companies or other depositories as the Board of Directors may select. All disbursements shall be made payable by check as proscribed in Section 4.1.

Section 4.3. Additional Financial Controls to be Recommended. The Board of Directors shall direct the Chief Executive Officer to promulgate and implement such additional financial controls as he or she deems necessary for LIGHTHUB.

Section 4.4. Fiscal Procedures. At a minimum, the following fiscal procedures shall control the financial operations of LIGHTHUB:

- (a) For budgetary purposes, the Treasurer/Secretary shall act as LIGHTHUB's Budget Officer.
- (b) At least annually, the Budget Officer shall prepare and submit to the Board of Directors a proposed budget, which shall be adopted by the Board of Directors in an open public meeting.
- (c) LIGHTHUB's adopted budget shall be available for public inspection at LIGHTHUB's business offices, during normal business hours.
- (d) As required by law, the Budget Officer shall certify the budget and file a certified copy thereof with the Utah State Auditor's Office.

Section 4.5. Annual Audit of Financial Records. On an annual basis, within 180 days after the close of the fiscal year of LIGHTHUB, the Chief Executive Officer shall cause to be prepared by a competent certified public accountant and submit to the Board of Directors an audit

of the financial records of LIGHTHUB for that budget year.

ARTICLE V. ETHICS

The members of the Board of Directors, while performing their official duties related to LIGHTHUB, and the Chief Executive Officer and the subordinate employees of LIGHTHUB shall comply with the requirements of the Municipal Officers and Employees Disclosure Act, Title 10, Chapter 3, Part 13, Utah Code Annotated 1953, as amended, and other applicable statutory provisions related to ethics and honesty in public governmental service.

ARTICLE VI. RECORDS AND REPORTS

LIGHTHUB shall keep at its principal office, or at such other place as the Board of Directors may order, a book or minutes of all meetings. LIGHTHUB shall also keep and maintain adequate and correct accounting of its properties and business transactions including accounts of its assets, liabilities, receipts, disbursements, gains and losses. The Board of Directors shall provide for the preparation and submission of an annual report, including a financial statement, made available to the membership of LIGHTHUB, its creditors and holders of securities. The Board of Directors may cause to be prepared an independent audit of LIGHTHUB's financial records every year and such audit shall be filed in the principal office.

ARTICLE VII. DISTRIBUTION ON TERMINATION OR WITHDRAWAL

LIGHTHUB'S Chief Executive Director shall upon any agreement of the Members to terminate and dissolve LIGHTHUB, prepare an inventory of all real and personal property of LIGHTHUB. Distribution on dissolution shall be made in kind or in cash as the Board of Directors may determine. The value of the distribution of assets and liabilities to each Member upon dissolution of LIGHTHUB shall be determined by calculating the value of all contributions of each Member excluding that Member's projects, beginning with the year 2019 and continuing through the year of dissolution. A calculation shall then be made of the percentage of contribution each Member has made to the sum of the contributions of the Members for the period of calculation. The calculated percentages shall then be applied to the total value of the assets or liabilities to be distributed and each Member shall take their corresponding percentage. Assets that may be directly traced and attributed to funds obtained from sources other than the Members as of the time of dissolution shall also be distributed based on the percentage of contribution.

If a Member wishes to withdraw from LIGHTHUB prior to the dissolution of LIGHTHUB, it shall give at least a one year written notice to the Board of Directors of LIGHTHUB, and any

distribution of assets to the withdrawing Member shall only be as negotiated with the remaining Members. The remaining Members shall negotiate in good faith in determining fair and reasonable terms and conditions for the distribution of LIGHTHUB assets to the withdrawing Member, including the satisfaction of all debt obligations related to LIGHTHUB owed by the withdrawing Member or LIGHTHUB to the reasonable satisfaction of bond counsel for LIGHTHUB. If the withdrawing Member cannot agree on a negotiated distribution of assets with LIGHTHUB within six months of providing written notice of the withdrawing Member's wish to withdraw, then LIGHTHUB hereto agrees to promptly mediate the matter upon receiving a written notice requesting mediation from the withdrawing Member. The joint costs of any such mediation shall be split equally between the withdrawing Member and LIGHTHUB, but the individual costs of the withdrawing Member or LIGHTHUB preparing for, or participating in, the mediation shall not be shared or split. If the dispute is not resolved in mediation, then either party may take the matter to court to sue the other party for failure to negotiate in good faith fair and reasonable terms and conditions for the distribution of LIGHTHUB assets to the withdrawing Member.

ARTICLE VIII. LIGHTHUB EXPANSION OR ADDED MEMBERS

Other municipalities or entities eligible to become Members of a Utah Interlocal Agreement may become added members to LIGHTHUB only upon written application to and approval by the Board of Directors, who may determine the terms and conditions of admission to LIGHTHUB according to the Interlocal Agreement §12.12, and who may deny any such application by a two-thirds vote of Members.

The Board of Directors may admit non-contributing Members who have no outstanding project ("**Project**", **Interlocal Agreement**) at the date of admission into LIGHTHUB but contemplate the necessity of such at a future date according to the Member's individual objective. A Member who does not dedicate a Project to LIGHTHUB or participate in connections services anticipated in the Interlocal Agreement, shall not be entitled to Discretionary Revenues, Excess Revenue Sharing or any other LIGHTHUB profit. Similarly, a non-contributory Member is not entitled to voting rights as defined in Article 9 of the Interlocal Agreement dated Sept. 1, 2019. In addition, non-contributory Members may be terminated from LIGHTHUB with a two-thirds vote of the Board of Directors. A non-contributing Member is not responsible for project or operational financial obligations of LIGHTHUB as outlined in the Interlocal Agreement.

Should the non-contributing Member elect to begin a Project within the terms and intention of the Interlocal Agreement, that Member shall give written notice to LIGHTHUB which notice shall include a description of the Project, date of completion, capital and operation projections or any other information the Board of Directors may request. After receipt of such notice, the Board of Directors shall vote by two-thirds majority to admit the non-contributing Member as a Member. After admission, a Member's status shall be altered from non-contributory member to Member and that altered Member shall be subject to all terms and conditions of the Interlocal Agreement and receive benefits and responsibilities of LIGHTHUB.

ARTICLE IX. OFFICES

The Board of Directors shall designate and LIGHTHUB shall maintain a principal office. The location of the principal office of LIGHTHUB shall be _____.

ARTICLE X. LIABILITY AND INDEMNIFICATION

The Directors, officers and employees of LIGHTHUB shall not be individually or personally liable for the debts or obligations of LIGHTHUB and shall be indemnified by LIGHTHUB against all financial loss, damage, costs and expenses (including legal counsel fees) reasonably incurred by or imposed upon them in connection with or resulting from any civil or criminal action, suit, proceeding, claim or investigation in which they may be involved by reason of any action taken or omitted to be taken by them in good faith as such Director, officer or employee of LIGHTHUB. Such indemnification is subject to the condition that a majority of a quorum of the Board of Directors comprised of those Directors, who are not parties to such action, suit, proceeding, claim or investigation or, if there be no such quorum, independent counsel selected by a quorum of the entire Board of Directors, shall be of the opinion that a person involved exercised and used the same degree of care and skill as a prudent man would have exercised or used under the circumstances, or that such person took or omitted to take such action in reliance upon advice of counsel for LIGHTHUB or upon information furnished by an officer or employee of LIGHTHUB and accepted in good faith by such person. The indemnification provided herein shall inure to the benefit of the heirs, executors, or administrators of any Director, officer or employee and shall not be exclusive of any other rights to which such party may be entitled by law or under any resolution adopted by the Board of Directors. Nothing in these Bylaws shall be construed as limiting or waiving any immunity provided to LIGHTHUB, any Director, officer, employee or agent by the Utah Governmental Immunity Act of Utah, Title 63G, Chapter 7, Utah Code Annotated 1953, as amended, or by other law.


ARTICLE XI. AMENDMENT OF BYLAWS

These Bylaws may be altered, amended or repealed by vote of the Board of Directors.

ARTICLE XII. SEVERABILITY

Should any part, term or provision of these Bylaws be held by final judgment of any court of competent jurisdiction to be illegal or in conflict with any law of the State of Utah or otherwise

rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected thereby.

❖ Adopted 
KW





DANIEL D. ANDERSEN
EXECUTIVE DIRECTOR

PO Box 1590
Salt Lake City, UT 84110-1590
801-366-7700 | 800-365-8775
Fax: 801-366-7734

Utah Retirement Systems Eligibility Questionnaire

- 1) This questionnaire is designed to determine the eligibility of an agency or other entity, referred to hereafter as Entity, regarding coverage by Utah Retirement Systems (URS).
- 2) Use this form to request the new entity letter required by U.C.A. § 67-1a-6.5(3)(d) or simply for an eligibility determination. If you are applying for participation with URS, please use the URS Qualifying Application.
- 3) Please answer all of the following questions in detail.
- 4) If the question is not applicable to your Entity, indicate with "not applicable."

EMPLOYER INFORMATION	
Entity Name LightHub Communications Agency	Email address dbunker@afcity.net
Address 51 East Main, American Fork Utah 84003	Telephone Number 801 -763 -3000
Employer Representative Name David Bunker	Title Chief Executive Officer

1. Was the Entity created and/or maintained pursuant to specific statutory authorization?

Yes No

If yes, explain and cite to statute. Interlocal Cooperation Act. Utah State Code Title 11, Chapter 13

2. Does the Entity have taxing authority?

Yes No

If yes, please cite to the authority for taxing powers. _____

3. Can the Entity exercise the power of eminent domain?

Yes No

If yes, please explain. Utah State Code Title 11 Chapter 13

4. Does the Entity have police powers?

Yes No

If yes, please explain. _____

5. Is the Entity's budget subject to governmental review and approval?

Yes No

If yes, please explain. Board of Directors acts as the finance authority of the Interlocal and is required to approve an annual budget.

6. Are the Entity's financial records subject to periodic audit by the State Auditor?

Yes No

If yes, please explain. Utah State Code Title 11 Chapter 13 Part 5

7. Are the Entity's employment decisions reviewed by a governmental body?

Yes No

If yes, please explain. See Bylaws of the LightHub Board of Directors, Section 2.7

8. Does the Entity provide payroll, policy and HR functions under its own Tax ID Number?

Yes No

If no, please explain. _____

9. Who has the authority to make executive decisions for the Entity? The Chief Executive Officer

How are these positions filled? (i.e. elected, appointed by elected officials, etc.) Appointed by the Board of Directors

10. Does the Entity have the authority to adopt administrative rules that preempt other law?

Yes No

If yes, please explain. _____

11. Does the Entity hold unit hearings with respect to services offered?

Yes No

If yes, please explain. _____

12. Are the Entity's records subject to public disclosure (Governmental Records Access and Management Act, etc.)?

Yes No

If yes, please explain. Utah State Code Title 11 Chapter 13

13. Is the Entity non-profit?

Yes No

If yes, please explain. The entity is a Governmental Entity

14. Is the Entity tax exempt?

Yes No

If yes, please provide tax exempt number. TBD

15. Does the Entity receive governmental/taxpayer funds or subsidies?

Yes No

If so, from what governmental source and in what amounts? Bonds may be backed by tax revenues. Amounts to be determined and only to be used if other sources are depleted.

16. Does the Entity have daily or periodic governmental supervision?

Yes No

If yes, please explain. In accordance with State Code Title 11 Chapter 13

17. Can the Entity enter into contracts or incur indebtedness without the approval of a governmental body?

Yes No

If yes, please explain. The Chief Executive Officer has been granted contracting authority by the Board of Directors.

See Bylaws of the LightHub Board of Directors, Article III

18. Does the Entity currently provide any retirement benefits?

Yes No

If yes, please describe. _____

By signing this form, I hereby certify that:

- a. I have the power and authority to sign on behalf of the Entity;
- b. The information I have provided on this form is true, complete, and correct;
- c. I understand and agree that by completing and submitting this form I am NOT applying for participation with URS on behalf of the Entity;
- d. I understand that the new entity letter referenced above, if requested, is based on the information provided by me on this form and that incorrect or incomplete information could result in a different determination;
- e. I understand and agree that the terms and conditions of eligibility in URS are set by statute and are subject to change by the Utah Legislature at any time; and
- f. I understand and agree that it is the Entity's responsibility to know and comply with its rights, responsibilities, and obligations under Title 49.

I have attached the following documentation: Bylaws Articles of Incorporation Resolution

Other Creation Documents _____

SIGNATURE

This form was completed by:

David H. Bunker Chief Executive Officer


Name of Person Submitting Title

51 East Main, American Fork Utah 84003

Mailing Address

801.763.3000

Telephone Number

 10/18/2019

Signature Date