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FILED
THIRD DISTRICT COURT
11 APR 18 PM 2:58
SALT LAKE DEPARTMENT
BY _____
DEPUTY CLERK

IN THE THIRD JUDICIAL DISTRICT COURT
SALT LAKE COUNTY, STATE OF UTAH

UTAH TELECOMMUNICATION OPEN
INFRASTRUCTURE AGENCY,

Plaintiff,

v.

CHRIS HOGAN,

Defendant.

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VERIFIED COMPLAINT

Civil No. 110909414

Judge Fratu

The plaintiff Utah Telecommunication Open Infrastructure Agency ("UTOPIA"), through counsel, for its Complaint against the defendant Chris Hogan ("Hogan"), states as follows:

PARTIES, JURISDICTION AND VENUE

1. UTOPIA is an interlocal cooperative entity and political subdivision of the State of Utah composed of sixteen Utah cities.

2. Hogan is an individual residing in the State of Colorado.

3. This Court has subject matter jurisdiction over this action pursuant to Utah Code Ann. § 78A-5-102(1).

4. This Court has personal jurisdiction over Hogan pursuant to Utah Code Ann. § 78B-3-205(1), (2) and (3), and section 7.6 of the parties' Agreement.

5. Venue is proper in this Court pursuant to Utah Code Ann. § 78B-3-304(2) and - 307, and section 7.6 of the parties' Agreement.

GENERAL ALLEGATIONS

6. On May 12, 2009, UTOPIA and Hogan entered into an Agreement for Professional Services (the "Agreement"). A true and correct copy of the Agreement is attached hereto as Exhibit A.

7. Pursuant to the Agreement, UTOPIA retained the services of Hogan as a consultant for a period of twenty-four (24) months, or until May 12, 2011.

8. The term "Services" was defined in Section 1.1(a) of the Agreement as responsibility "for all sales, marketing, business development, operations, IT, and engineering efforts regarding the UTOPIA network."

9. The Agreement provided in Article IV: "Consultant understands that the Services performed for UTOPIA are confidential and Consultant agrees to maintain such confidentiality. This ARTICLE IV. shall survive the termination of the Agreement."

10. On March 17, 2011, UTOPIA gave Hogan verbal notice that the Agreement would expire and terminate on May 12, 2011.

11. On March 21, 2011, after the verbal notice of expiration of the Agreement,

Hogan's counsel sent to UTOPIA a letter with an attached draft complaint. Counsel threatened to file the complaint unless Hogan were reinstated and there were "discussion of who would direct UTOPIA forward." A true and correct copy of the March 21, 2011, letter and draft complaint are attached as Exhibit B.

12. The draft complaint largely voices dissatisfaction with the management and direction of UTOPIA in its "General Allegations," matters as to which Hogan has no claim or cause of action and matters as to which the Agreement bound him to confidentiality.

13. The four causes of action in the draft complaint each purport to sound in contract or quasi-contract but have as their central purpose to force UTOPIA to extend the Agreement beyond its two-year term and to recover amounts under the Agreement that UTOPIA had already indicated it would pay.

14. On March 24, 2011, UTOPIA confirmed its previous verbal notice of expiration by delivering a written "Notice of Expiration of Professional Services Agreement." A true and correct copy of this Notice is attached as Exhibit C.

15. The Notice of Expiration had as its purpose, in part, to respond to the March 21, 2011, letter of Hogan's counsel.

16. On March 24, 2011, counsel for Hogan sent to UTOPIA a second letter expressly threatening that, unless UTOPIA met certain demands, including payment of over \$200,000, Hogan would file the lawsuit to include allegations of wrongdoing that would invite "public scrutiny" while overtly admitting that such "public scrutiny . . . threatens to destroy the work of UTOPIA." A true and correct copy of the March 24, 2011, letter is attached as Exhibit D.

17. The letter conditioned Hogan's willingness to keep quiet about the supposed

damaging information obtained by him in the course of the service he provided under the Agreement on several extravagant demands, none of which are afforded Hogan in the Agreement:

- a. "Mr. Hogan demands the opportunity to speak freely, outside of the presence of Todd Marriott ("Marriott"), with UTOPIA's Executive Board."
- b. "UTOPIA must pay Mr. Hogan \$161,000 for his expectation damages of employment for the next fourteen months."
- c. "UTOPIA must pay Mr. Hogan \$28,000 for the value of the use of an apartment as part of his employment contract."
- d. "UTOPIA must pay Mr. Hogan \$20,000 for punitive damages. . . ."
- e. "UTOPIA must pay Mr. Hogan's legal fees of \$10,000.00."

18. The March 24, 2011, letter offers no legal basis for these demands but instead, as in the draft complaint, recounts at length Hogan's perception of deficiencies in the leadership of UTOPIA's executive director and makes it clear that Hogan intends to file the draft complaint and publicize these perceived deficiencies if his demands are not met.

19. In response to Hogan's threats and ultimatum, UTOPIA sent a letter dated April 4, 2011, stating that it would not submit to blackmail or extortion. This letter noted that Hogan failed to recite any legal basis for demanding the various concessions set forth in the March 24, 2011 letter. A true and correct copy of the April 4, 2011, letter is attached as Exhibit E.

20. In the April 4, 2011, letter, UTOPIA made specific reference to the confidentiality provision found in Article IV of the Agreement and demanded written assurances that Hogan would abide by this confidentiality provision in the Agreement.

21. Hogan has failed to provide such written assurances. Rather, most recently, Hogan's counsel sent a letter dated April 11, 2011, contending that Hogan's earlier demands

were “to vindicate Mr. Hogan’s rights while shielding UTOPIA from public scrutiny.” A true and correct copy of the April 11, 2011, letter is attached as Exhibit F.

22. In the April 11, 2011, letter, Hogan again recounts at length his various grievances with UTOPIA’s executive director and then contends that “[f]iling a lawsuit will protect the public trust by exposing what [Hogan] believes is mismanagement.”

23. Hogan lays bare his motive in making broad and unwarranted demands when he concedes:

[O]wing to the public’s already precarious public opinion of UTOPIA, Mr. Hogan fears that a lawsuit will destroy any faith that the public has in UTOPIA. He is aware that the media tracks legal filings. If the media, which has already been critical of UTOPIA, learns of the lawsuit, it will recommence its assault on UTOPIA. Such an assault would likely destroy public faith in UTOPIA. Without public faith, UTOPIA will not receive public funding. Without public funding, UTOPIA will fail.

24. In the letter, Hogan disregards UTOPIA’s earlier assertion that he is bound by the confidentiality provision in the Agreement but rather argues that UTOPIA has “violated his First Amendment rights.”

FIRST CAUSE OF ACTION (Specific Performance)

25. UTOPIA incorporates by reference each and every allegation set forth above in paragraphs 1 through 24.

26. Hogan has threatened to violate the confidentiality requirements of the Agreement if he is not granted certain concessions and payments to which he would not otherwise be entitled under the terms of the Agreement.

27. By his own admission and in very fact, if Hogan violates the confidentiality provisions of the Agreement and discloses information that he obtained only by virtue of

providing services under the Agreement, the disclosure of that information, whether true or not true, will cause UTOPIA irreparable harm.

28. It is only by reason of Hogan's conviction that the potential harm to UTOPIA is substantial and irreparable that he makes the overreaching demands set forth in his letters of March 24 and April 4, 2011.

29. Hogan's threatened disclosure of information obtained during the course of services he provided to UTOPIA pursuant to the Agreement is in violation of the Agreement.

30. This threat of wrongful disclosure serves Hogan only as a means to obtain concessions and benefits from UTOPIA to which Hogan is not entitled.

31. UTOPIA is entitled to a temporary restraining order and preliminary and permanent injunction to specifically enforce the confidentiality provision of the Agreement and prohibit Hogan from disclosing any information obtained during the course of rendering services under the Agreement.

SECOND CAUSE OF ACTION (Declaratory Relief)

32. UTOPIA incorporates by reference each and every allegation set forth above in paragraphs 1 through 31.

33. Hogan claims that UTOPIA has a legal duty to renew the Agreement for a further year and to compensate him above and beyond that compensation specified in the Agreement.

34. The Agreement is the sole source of any legal duty that UTOPIA owes to Hogan with respect to the services provided by Hogan to UTOPIA.

35. The Agreement expires, by its own terms, on May 13, 2011.

36. UTOPIA is entitled to an order of this Court declaring that (a) the Agreement expires on May 13, 2011, (b) UTOPIA has no legal duty to renew the Agreement, (c) UTOPIA has no legal duty to compensate above and beyond that compensation specified in the Agreement, and (d) UTOPIA owes no other legal duty to Hogan with respect to the services provided by Hogan to UTOPIA.

RELIEF

WHEREFORE, UTOPIA demands Judgment against Hogan as follows:

A. A temporary restraining order and preliminary and permanent injunction prohibiting Hogan from disclosing any information obtained during the course of rendering services under the Agreement.

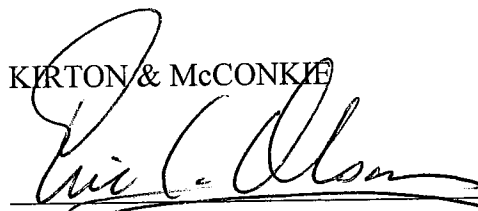
B. A declaration that (a) the Agreement expires on May 13, 2011, (b) UTOPIA has no legal duty to renew the Agreement, (c) UTOPIA has no legal duty to compensate above and beyond that compensation specified in the Agreement, and (d) UTOPIA owes no other legal duty to Hogan with respect to the services provided by Hogan to UTOPIA.

C. Award of UTOPIA's attorney fees and costs incurred in bringing this action.

D. Such further relief, legal and equitable, as the Court may deem proper.

DATED this 18th day of April, 2011.

KIRTON & McCONKIE



Eric C. Olson

Stephen W. Geary

Attorney for Plaintiff UTOPIA

Plaintiff's Address


2175 S. Redwood Road
West Valley City, UT 84119

VERIFICATION

STATE OF UTAH)
 : ss
COUNTY OF SALT LAKE)


Kirt Sudweeks, being first duly sworn and under oath, deposes and says that he is the Chief Financial Officer of the Utah Telecommunication Open Infrastructure Agency Plaintiff in the above-entitled action; that he has read the foregoing VERIFIED COMPLAINT, and understands the contents thereof, and the same is true of his own knowledge, information and belief.

DATED this 18TH day of April, 2011.



Kirt Sudweeks, CFO

SUBSCRIBED AND SWORN TO before me this 18 day of April, 2011.



NOTARY PUBLIC
Residing in Salt Lake County, Utah

4847-6614-7849, v. 1



EXHIBIT A

**AGREEMENT
for
PROFESSIONAL SERVICES
between
UTOPIA
and
Chris Hogan, Consultant**

This Agreement is made as of the 12 day of May, 2009 (the "Effective Date"), between the Utah Telecommunication Open Infrastructure Agency, an interlocal cooperative agency organized under the laws of the State of Utah ("UTOPIA"), and Christopher Hogan, Consultant.

RECITALS:

WHEREAS, UTOPIA is in need of professional services (the "Services") as further defined herein; and

WHEREAS, Consultant has substantial experience performing services similar to those required by this Agreement; and

WHEREAS, pursuant to UTOPIA's Procurement Policy no informal or formal procurement process is required to procure Consultant's Services; and

WHEREAS, UTOPIA wants to retain the Consultant's Services, and Consultant is willing to perform the Services.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

AGREEMENT:

ARTICLE I. SCOPE OF WORK

Section 1.1. Services

Consultant shall perform the following services ("Services"):

- (a) Generally, Consultant shall be responsible for all sales, marketing, business development, operations, IT, and engineering efforts regarding the UTOPIA network.

Section 1.2. Compensation

Compensation is as outlined in Exhibit A – “Statement of Work”

ARTICLE II. UTOPIA will compensate Consultant for the Services as set forth.

Section 2.1. Payment

UTOPIA will pay Consultant all undisputed invoiced amounts within thirty (30) days of UTOPIA's receipt of invoice. In the event UTOPIA disputes any invoiced amounts, the parties will work expeditiously to resolve such dispute, whereupon UTOPIA will pay Consultant as agreed upon in such resolution. Late payments on undisputed invoices will be subject to a 1% per month late fee.

ARTICLE III. TERM AND TERMINATION

This Agreement will be deemed commenced as of the Effective Date and will continue for twelve (24) months.

ARTICLE IV. CONFIDENTIALITY

Consultant understands that the Services performed for UTOPIA are confidential and Consultant agrees to maintain such confidentiality. This ARTICLE IV. shall survive the termination of this Agreement.

ARTICLE V. OWNERSHIP OF DOCUMENTS

All documents, notes, work papers, formulas, files, research, maps, and other records, whether in hard copy, electronic or any other format (“Records”), and all rights pertaining thereto of any kind, produced by or in Consultant's possession in connection with this Agreement, without limitation, shall become and remain UTOPIA's property. UTOPIA shall have the right to use such Records without restriction or limitation and without further compensation to Consultant. All Records created by Consultant shall constitute “works for hire” under U.S. Copyright laws and UTOPIA shall retain all rights associated therewith. This ARTICLE V. shall survive the termination of this Agreement.

ARTICLE VI. REPRESENTATIONS, INDEMNIFICATION

Section 6.1. Representations.

Consultant represents and warrants that Consultant is free to enter into this Agreement and that Consultant is under no disability, restriction, or prohibition that will interfere in any manner with Consultant's full compliance with and performance under this Agreement. Consultant warrants that Services will be of good quality and to the reasonable satisfaction of UTOPIA. Consultant also warrants and represents that no Services provided to the UTOPIA hereunder will infringe or violate any right of any person or firm and that UTOPIA may exploit such Services provided hereunder without liability or obligation to any person or firm.

Section 6.2. Indemnification.

Consultant agrees to indemnify, hold harmless and (at Indemnitee's option) defend UTOPIA, its member municipalities and each of their employees, officers, directors, contractors, representatives, employees, agents, insurers, attorneys, successors and assigns (the "Indemnitees") for, from and against any and all claims, causes of action, damages (including, without limitation, all foreseeable and unforeseeable consequential damages, injunction and other relief), fines, judgments, penalties, costs, liabilities, losses or expenses (including, without limitation, experts' and consultants' costs, attorneys' fees and reasonable investigative and discovery costs) arising prior to, during or after the term of this Agreement on account of or in connection with, or directly or indirectly related to: (i) the acts or omissions of the Consultant, its agents, servants, employees, contractors, guests and invitees (collectively, the "Consultant's Agents") in the performance of this Agreement or the delivery of any Services; (ii) the violation of law by the Consultant or the Consultant's Agents; (iii) Consultant's untrue representation or warranty; and (iv) the use, reproduction, distribution, sale or other commercialization of Services in violation of rights under any patent, copyright, trademark, or other intellectual property right or application for the same. Consultant's obligations with respect to indemnification hereunder shall remain effective, notwithstanding the expiration or earlier termination of this Agreement, as to claims arising or accruing prior to the expiration or earlier termination of this Agreement. Consultant shall not be required to indemnify or defend any Indemnitee against any injury, loss of life, or damage which is caused by the sole negligence or willful misconduct of any Indemnitee.

ARTICLE VII. MISCELLANEOUS PROVISIONS

Section 7.1. Amendments

No modifications, amendments or supplements to this Agreement shall be effective for any purpose unless in writing, signed by each party.

Section 7.2. Conflict of Interest

Consultant covenants that it does not now, nor will it acquire any interest, direct or indirect, which may in any manner conflict with Consultant's performance under this Agreement unless such conflict is waived in writing by UTOPIA in advance.

Section 7.3. Employment Status

Services rendered by Consultant pursuant to this Agreement are not rendered as a UTOPIA employee and amounts paid under this Agreement do not constitute compensation paid to an employee. The parties expressly agree that Consultant is an independent contractor and not an employee of UTOPIA, and as such, Consultant is solely responsible for her own employment taxes, worker's compensation premiums and similar expenses. UTOPIA assumes no liability for Consultant's actions and Consultant agrees to indemnify and hold UTOPIA harmless from and against any third party claims brought as a result of Consultant's Services.

Section 7.4. Assignment of Rights

The rights of each party under this Agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation or other entity without the prior, express, and written consent of the other party. Any transfer stock, assets, or any other change in control in the ownership or management of Consultant shall be deemed an assignment hereunder and shall require prior, express, and written consent of UTOPIA.

Section 7.5. Applicable Law

This Agreement and Consultant's obligations and Services hereunder are made and must be performed in compliance with all applicable federal, state, and local laws. The interpretation and enforcement of this Agreement shall be pursuant to the laws of the State of Utah without regard to conflicts of law principles..

Section 7.6. Jurisdiction and Venue

Any dispute arising from or related to this Agreement shall be brought in Third Judicial District Court of Utah, Salt Lake County, if in state court, or the United States District Court of Utah, if in federal court.

Section 7.7. Time is of the Essence

The parties acknowledge and agree that TIME IS OF THE ESSENCE in Consultant's performance of the Services hereunder.

Section 7.8. No Authority to Bind

Consultant expressly acknowledges and agrees that no actions undertaken by Consultant in the performance of the Services with respect to any third parties shall be binding upon UTOPIA except through UTOPIA's express written agreement with such third parties. Consultant covenants and warrants that it will not represent, expressly or impliedly, to any third party that such authority exists. Consultant shall be liable to UTOPIA for any third party obligations which may arise as a result of Consultant's violation of this Section 7.8.

Section 7.9. Severability

In the event that any provision of this Agreement is declared void, invalid or unenforceable by a regulatory agency, tribunal or court of competent jurisdiction, the remainder of the Agreement shall continue in full force and effect as if the offending provision were not contained herein, and the offending provision shall be replaced by a mutually acceptable and valid provision which comes closest to the intention of the parties underlying the offending provision. If the parties cannot reasonably agree on a replacement provision and the offending provision is material to the Agreement, either party may terminate the Agreement upon written Notice to the other party, provided that all obligations of a party which shall have accrued prior to the date of termination shall be fulfilled by the party.

Section 7.10. Arms' Length Negotiation; Attorney Review; Construction

The parties mutually acknowledge that the provisions of this Agreement are the product of arm's-length negotiations with both parties having essentially equal bargaining strength, access to legal representation of its choice and opportunity to determine the language used herein. The provisions of this Agreement shall not be construed for or against either party. The captions and headings of this Agreement are for ease of reference and shall not be deemed to define or limit the scope of any of the terms, covenants, conditions or Agreements contained herein or in any exhibit attached hereto. As used herein, all words in any gender shall be deemed to include the masculine, feminine or neuter gender, all singular words shall include the plural, and all plural words shall include the singular, as the context may require.

Section 7.11. Entire Agreement

This Agreement, together with any Statements of Work, exhibits, schedules and purchase orders, constitutes the entire Agreement and understanding of the parties

concerning the subject matter hereof. It supersedes any and all contracts, arrangements, commitments, understandings, dealings, and offers, whether oral or written, heretofore made by the parties with reference to the subject matter hereof.

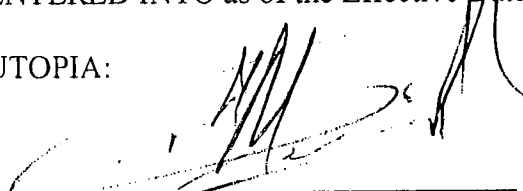
Section 7.12. Non-Waiver

Any failure by either party to exercise any of its rights hereunder shall not be deemed a waiver of any rights or remedies that such party may have, and shall not be deemed a waiver of any subsequent breach or default.

(Signature Page to Follow)

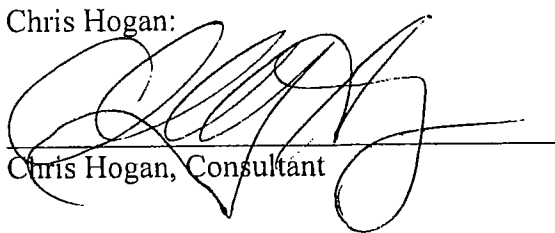
ENTERED INTO as of the Effective Date written above.

UTOPIA:



Todd Marriott, Executive Director

Chris Hogan:



Chris Hogan, Consultant

Exhibit A

Statement of Work

Chris Hogan

Version 0.0
May 12, 2009

Presented by:
Chris Hogan

Time and materials

Client name	Utopia
Client's administrator	Todd Marriott
Project name	UTOPIA
Engagement duration	Twenty four (24) months
Begin date	May 15, 2009
End date	May 14, 2011

Schedule of rates

Item description	Delivery schedule	Cost (monthly)
Consulting Fee	Invoice	\$11,500

Payment terms

Phase	Completion date	Payments due
Term	May 14, 2011	Monthly

Statement of work

Assumptions

This Statement of Work ("SOW") is made as of May 12, 2009 between Chris Hogan an independent telecommunications consultant having his principal place of business at 3235 Soaring Eagle Lane, Castle Rock, CO 80109 and Utopia with principal offices at 2175 S. Redwood Road, West Valley City, UT 84119 ("Client") (collectively, "Parties"). This project associated with helping Utopia launch its new marketing and business plan will be referred to as 'New Market Strategy'. The purpose of this statement of work is to define the body of work to be performed in helping Utopia develop and successfully implement the New Market Strategy and develop a transition plan to maintain long term sustainability. The initial statement of work is defined as a twelve-month consecutive period. Subsequent statements of work will be defined by Utopia and Chris defined prior to the expiration of the based on an as needed basis and can be either defined as a monthly arrangement or longer if deemed necessary by Utopia. Prior to the expiration of the initial phase both Utopia and Chris Hogan will agree the length of future statements of work.

Chris Hogan will, with an effective date of May 15, 2009, contract directly with Utopia and work under the direct reporting relationship of Todd Marriot, Utopia Executive Director and the Utopia Board of Directors. Chris Hogan will primarily work out of the Utopia offices in Utah.

Change management process

Any changes to the agreed SOW will be agreed in advance of the change implementation by both Utopia and Chris Hogan.

Engagement related expenses

All expenses incurred as a result of this engagement will be submitted for approval by Utopia with all supporting documentation. Expenses relating to the actual New Market Strategy will be considered program expenses and outside of this SOW and defined in the project budget.

Professional services agreement

This SOW will envelope all Marketing and Operational activities related to building and maintaining the growth and development of the UTOPIA organization. Deliverables are defined below but not limited to only these listed - as the plan will evolve over time. This SOW will include any and all deliverables deemed necessary and agreed by Chris and UTOPIA to build and maintain all marketing and operational related activities.

Marketing

- Brand
- Media and Collateral development
- Community Partner Development
- Channel Partners
- Media Plan development and execution
- PR Plan
- Portal Development and Implementation
- Service Provider recruitment and management
- Project Budget
- Sales Development
 - Create a sales strategy for both the residential, business, and long haul categories. Hire and manage the sales/channel teams

Operational Development

- NOC
- Engineering
- IT

Organizational development

Business Development

Acceptance and authorization

IN WITNESS WHEREOF, the parties hereto each acting with proper authority have executed this Statement of Work, under seal.

Utopia

Full name

Exec. Order

Title

Signature

Date

May 15, 2009

Chris Hogan

Full name

Title

Signature

Date

May 12, 2009

EXHIBIT B

March 21, 2011

STEVE S. CHRISTENSEN
ssc@ctlawfirm.net

Kane Loader
Chair of Executive Committee
UTOPIA
2175 South Redwood Road
West Valley City, UT 84119-1319

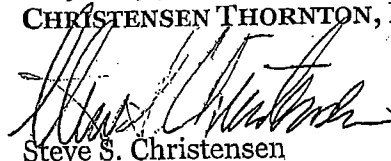
Re: Complaint against UTOPIA

Dear Mr. Loader:

This firm has been retained by Christopher Hogan. I enclose with this letter a copy of a complaint which we are instructed to have filed shortly. Mr. Hogan's first choice would be to have his consulting agreement reinstated and to be able to assist UTOPIA in the short term. Before he can accept that result, there would need to be discussion of who would direct UTOPIA forward.

Alternatively, he is open to settlement discussions. If settlement is an option he will need to know that before the close of business today. I look forward to hearing back from you.

Very truly yours,
CHRISTENSEN THORNTON, PLLC



Steve S. Christensen

Enclosure
cc: Davis Shaw

Steve S. Christensen (U.S.B. No. 6156)
ssc@ctlawfirm.net
Craig L. Pankratz (U.S.B. No. 12194)
CHRISTENSEN THORNTON, PLLC
136 East South Temple, Suite 1400
Salt Lake City, Utah 84111-3156
Telephone: (801) 303-5800
Facsimile: (801) 322-0594

Attorneys for Plaintiff Chris Hogan

IN THE UNITED STATES DISTRICT COURT
IN AND FOR DISTRICT OF UTAH

CHRIS HOGAN,

Plaintiff,

vs.

UTAH TELECOMMUNICATION
INFRASTRUCTURE AGENCY,

Defendant.

COMPLAINT

Case No. _____

Judge _____

Plaintiff alleges as cause of action against defendants as follows:

GENERAL ALLEGATIONS

1. Christopher Hogan ("Hogan") is domiciled in the State of Colorado but has worked Monday through Friday in the State of Utah each week since May 9 2008.
2. That Utah Telecommunication Open Infrastructure Agency, aka UTOPIA, (hereafter "UTOPIA"), an interlocal cooperative agency organized under the laws of the State of Utah, is a quasi governmental entity with its principal place of business in Layton City, Davis County, State of Utah;

3. This court has jurisdiction of this action pursuant to 28 U.S.C. § 1332. The amount in controversy exceeds \$75,000.00 and the action is between citizens of different States, UTOPIA's citizenship being determined based on its principal place of business.
4. Venue is proper in the United States District Court of the District of Utah.
5. That UTOPIA receives its funding primarily through taxpayer-funded bonds.
6. That UTOPIA must comply with the same Request for Proposal (hereafter RFP) procedures that Utah governmental agencies must comply with when awarding contracts.
7. That UTOPIA is subject to Utah's Governmental Records Access Management Act.
8. Based on information and belief, UTOPIA has been approved by the member cities to secure bond to fund the development of a municipal fiber optic infrastructure ("Municipal Fiber Project" or "MFP") for approximately \$65 Million in the following eight cities: Perry, Payson, Midvale, Murray, Centerville, Layton, Orem, and West Valley City. The cities plan to sell the first one at approximately \$20 Million and that would provide funding for year one of their five year plan. If they hit performance benchmarks, they would be allowed to sell another.
9. Bidding on the MFP was initially planned to be opened for two separate phases, one for mainline construction of the network and the other for fiber drop installs. Hogan was made aware that an initial RFP was posted for respondents for either the mainline construction or fiber drop installs or both parts of the network components. After initial bids were submitted the bidding process was terminated by UTOPIA.

10. UTOPIA then began to prepare a request for new bids to be submitted with the preference of one general contractor to oversee the entire project, rather than to have two phases.
11. On information and belief, UTOPIA has not yet posted this RFP nor awarded the contract for its Municipal Fiber Project.
12. Based on information and belief, Corning, Inc. was planning to submit a bid as a general contractor. Corning has discussed using Tetra Tech a subcontractor under which Tetra Tech would install the curb to home portion of the network.
13. On information and belief, Ryan Marriott is in upper management of Tetra Tech in the Utah region. Ryan Marriott is also a brother to Todd Marriott, UTOPIA's Executive Director ("Director").
14. In order to make sure the bidding process did not jeopardize the success of UTOPIA and in hopes of making the process transparent, Hogan suggested to Jarrod Pantier, UTOPIA's Outside Plant Manager ("Pantier") that he disclose to the Executive Board, the relationship between Tetra Tech and the Director as well as the possibility that Corning may be having discussions with Tetra Tech about awarding the curb to home subcontract to Tetra Tech.
15. That Hogan's motive in speaking with Pantier about the potential conflict of interest was to protect UTOPIA and to prevent UTOPIA from entering into a contract that endangered UTOPIA's continual success and existence.
16. On information and belief, Pantier disclosed to Director the advice Hogan gave to him.

FIRST CAUSE OF ACTION
(Breach of Contract)

17. Hogan realleges paragraphs 1 through 16 as though set forth in full hereat.
18. On or about May 9, 2008, a representative of Utah Telecommunication Open Infrastructure Agency, a Utah Agency, hereafter "UTOPIA," offered to enter into a contract with Hogan.
19. UTOPIA offered to pay Hogan \$11,500 per month in exchange for Hogan's services as a Consultant to be responsible for all sales, marketing, business development, operations, IT, and engineering efforts regarding the UTOPIA network.
20. Under the offer, Hogan would work as an independent contractor and not as an employee of UTOPIA.
21. Hogan would work as an independent contractor for UTOPIA for the period of twenty-four (24) months.
22. Hogan accepted UTOPIA's offer.
23. Hogan and UTOPIA memorialized their agreement in a written contract;
24. The written contract was based upon valuable consideration.
25. On or about May 9, 2008, the written contract, hereafter "the contract" was signed by Hogan and Todd Marriott (Director), Dave Shaw (General Counsel), Kirt Sudweeks (CFO), representatives of UTOPIA.
26. In the contract, Hogan and UTOPIA agreed that any dispute arising from or related to the contract would be brought in Third Judicial District Court of Utah, Salt Lake County, if in state court, or the United States District Court of Utah, if in federal court.

27. The contract did not contain a provision that defined when either party could terminate the contract before the expiration of the twenty-four (24) months.
28. On or about March 17, 2011, Todd Marriott unilaterally terminated the contract between Hogan and UTOPIA;
29. Todd Marriott accused Hogan of "insubordination," even though Hogan was an independent contractor and not an employee of UTOPIA.
30. Todd Marriott terminated the contract because of Hogan's alleged insubordination.
31. Hogan had performed all of his obligations as an independent contractor under the contract.
32. UTOPIA's unilateral termination of the contract was without cause.
33. Hogan's consulting agreement should be reinstated.
34. As of March 17, 2011, UTOPIA had not paid the eleven-thousand-five-hundred dollars (\$11,500) it owed to him for his services rendered in the month of February, 2011.
35. As of March 16, 2011, UTOPIA had not paid the five-thousand-seven-hundred-fifty dollars (\$5,750) it owed to him for his services rendered in the month of March up to March 16, 2011.
36. As of March 17, 2011, two months remained under the contract;
37. But for UTOPIA's breach of the contract, Hogan would have received eleven-thousand-five-hundred dollars (\$11,500) each month for the remaining months under the contract.
38. In total, Hogan claims that the company has caused him damages of \$40,250.00 by breaching its contract with him.

SECOND CAUSE OF ACTION
(Breach of the Covenant of Good Faith and Fair Dealing)

39. Plaintiff reaffirms, realleges, and incorporates herein paragraphs 1-37 of this Complaint as if set forth in full.
40. Every contract has an implied covenant of good faith and fair dealing.
41. The UTOPIA breached the covenant of good faith and fair dealing when they terminated the contract between them and Hogan and through its actions subsequent to terminating the contract.
42. Director asked Hogan to work directly with Jarrod Pantier (OSP Manager) in preparing the RFP process and he praised the excellence of how well Hogan had recently managed a similar RFP process in securing a marketing ad agency to handle marketing work for UTOPIA for the same growth plan.
43. On information and belief, as a result of the termination of Hogan's consulting agreement, Director has locked Hogan out of his office computer, his company cellular phone and announced his termination to all employees at UTOPIA.
44. Director sent a text on March 18, 2011 to Hogan that stated as follows: "Chris, FYI—under article 4, the services you have performed are confidential and you have agreed to maintain the confidentiality [sic] of the same. Discussion of your internal knowledge of Utopia as result of the Services you have performed with any person or entity is in violation of article 4. You are directed to cease and desist all such activities".
45. On information and belief, Director locked down company offices over the weekend.

46. On information and belief, on March 17, 2011, Gloria Cortes contacted Jan Webb ("Jan"), landlord of the American Towers apartment which UTOPIA leases for Hogan and indicated that UTOPIA would pay through the current lease term and that Hogan can remain in the apartment until the end of the current month when the lease would be terminated.
47. On March 18, 2011, Cortes called Jan a second time and asked Jan to get access card and keys from Hogan and have him vacate the Condo immediately and to remove his personal belongings. Cortes indicated the lease would be terminated as of March 18 and requested written notification of the termination. Jan sent an email to Cortes with the written confirmation of the termination.
48. Within hours of the second telephone call, Hogan spoke with LaVarr. Hogan indicated that since UTOPIA terminated the lease, Hogan would pick up the cost of the unpaid balance personally.
49. Cortes then called Jan Friday evening thanking her for the email of the termination of the lease and for refunding the balance of the lease for the remainder of the lease term. Cortes then asked to be allowed to enter the condo in order to take pictures and prove there was no liability and to prove that Hogan's belongings were gone.
50. LaVarr Webb ("LaVarr") then got on the call and indicated that He and Jan owned the condo and since UTOPIA has already terminated the lease he can do anything he wants with his property.

51. A woman--believed to be Peggy Hathaway based on the name on the caller ID display and also believed to be an attorney--then began to speak and immediately became belligerent with the Webbs, said that Chris cannot stay in the condo and that this was a corporate lease, to which LaVarr said the lease has already been terminated. LaVarr then asked who she was and she said you don't need to know my name.
52. The unidentified woman then informed LaVarr that the phone conversation was being recorded. LaVarr objected to being recorded without his permission and questioned if that was legal. The woman stated it was legal and she could record the call and at that point stated abruptly to LaVarr that she was through with this call and hung up the phone.
53. UTOPIA' actions caused damages to Hogan in an amount to be proven at trial.

THIRD CAUSE OF ACTION
(Wrongful Discharge in Violation of Public Policy)

54. Plaintiff reaffirms, realleges, and incorporates herein paragraphs 1-50 of this Complaint as if set forth in full.
55. The State of Utah has established a clear and substantial public policy to enforce private contracts and to prevent parties from breaching these contracts on the bases of pretexts.
56. The State of Utah has also established a clear and substantial public policy requiring parties to contracts to perform the terms of these contracts in good faith and with fair dealing.
57. Plaintiff acquired a significant legal right when he contracted with UTOPIA to provide his professional services as an independent contractor.
58. UTOPIA terminated the contract citing insubordination.

59. As an independent contractor, Hogan was not capable of insubordination.
60. UTOPIA violated the clear public policy of the State of Utah by terminating the contract.
61. A person who terminates a contract for professional services solely on the basis of seeking to avoid performing a contractual obligation to a person providing professional services is liable for wrongful discharge in violation of public policy.
62. Hogan has undertaken all necessary action to mitigate his damages, including seeking alternate employment.
63. UTOPIA's actions caused damages to Hogan in an amount to be proven at trial.

FOURTH CAUSE OF ACTION
(Promissory Estoppel)

64. Plaintiff reaffirms, realleges, and incorporates herein paragraphs 1-60 of this Complaint as if set forth in full.
65. Hogan's first contract with UTOPIA began in 2008 starting in May of 2008, going to September 2008. It was extended to May, 2009. Then the current contract from May 2009 through May 15, 2011.
66. Although UTOPIA had not expressly agreed to renew the contract in May, Hogan and UTOPIA had engaged in multiple conversations that led Hogan to understand that the contract would be renewed.
67. Because of the importance of the marketing department to the overall success of UTOPIA, Hogan believed that the sudden termination of a key consultant in this project would be very disruptive to the overall mission of UTOPIA.

68. Hogan discussed with Director and with UTOPIA counsel, Shaw, his intent to stay on with UTOPIA through the first year of the five year phase, from May 15, 2011 to May 15, 2012. It is expected that the bond would be issued approximately on May 15, 2011. Hogan had an expectation of continued employment as a consultant with UTOPIA at his current pay through May 15, 2012.
69. This discussion of a succession plan was raised by Hogan because he wished to make the transition from him to his successor as smooth as possible so that the Executive Board would be comfortable with the new team that would complete UTOPIA's mission.
70. When the idea of a succession plan was presented to Director, the Director orally approved the idea in concept. Until March 17, 2011, there was no indication that Hogan's contract would not be renewed. There was no indication that contradicted the need for a succession plan.
71. On hundred thirty eight thousand dollars (\$138,000) would be the value of the anticipated wages for the subsequent 12 months – established based on Hogan's intent of remaining with UTOPIA through the first full year of the current five year plan.
72. The conversations between UTOPIA and Hogan constituted an implied promise that the contract would be renewed for an additional year.
73. In reasonable reliance on UTOPIA's representations, Hogan was not seeking to provide his professional services or to be employed elsewhere for the year following the termination of the contract.

74. Hogan's reliance was reasonable because he had been providing services as an independent contractor for UTOPIA for approximately three years and had multiple conversations about his succession plan.
75. UTOPIA knew or should have known that by discussing with Hogan about how he would terminate his services and train his successor within one year that Hogan would rely on the implied promise of renewing the contract for one year.
76. UTOPIA was aware that Hogan relied upon their promises and withheld searching for alternate employment because Hogan continued to provide his professional services under the contract.
77. UTOPIA was aware of all material facts of or relating to the contract between the parties at the time Hogan continued providing his professional services to UTOPIA.
78. Hogan was damaged by relying upon UTOPIA's promises because he withheld from seeking alternate employment and instead continued providing professional services to UTOPIA.
79. As a result of UTOPIA's actions, Plaintiff was damaged in the amount of \$138,000.

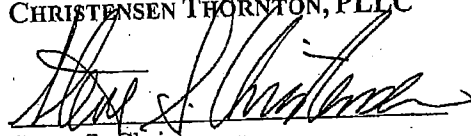
WHEREFORE, Plaintiff prays:

1. That Hogan's consulting agreement be reinstated or alternatively that judgment be rendered against UTOPIA for the principal amount of \$40,250.00 on the first cause of action;

2. That judgment be rendered against UTOPIA for the interest due and continuing to accrue at the rate of 10% per annum, from March 17, 2011, in an amount to be proven at time of trial;
3. That judgment be rendered against UTOPIA in an amount to be proven at the time of trial on the second and third causes of action;
4. That judgment be rendered against UTOPIA for the principal amount of \$138,000.00 on the fourth cause of action;
5. For costs of Court.

DATED this 21st day of March, 2011.

CHRISTENSEN THORNTON, PLLC



Steve S. Christensen

Craig L. Pankratz

Attorneys for Plaintiff

Serve Defendant at:

2175 South Redwood Road
West Valley City, UT 84119-1319

EXHIBIT C

NOTICE OF EXPIRATION
OF
PROFESSIONAL SERVICES AGREEMENT
ALL STATEMENTS OF WORK
AND
INTENT NOT TO RENEW
AND
NOTICE OF BREACH

March 24, 2011

Via FedEx and Email: chrishogan27@gmail.com

Chris Hogan
3235 Soaring Eagle Lane
Castle Rock, CO 80109

Dear Chris:

As we discussed last Thursday, March 17, 2011, your actions specific to recent interactions with Mr. Jarrod Pantier are clearly outside the scope of that certain Professional Services Agreement, together with applicable Statements of Work, dated as of May 12, 2009 ("Services Agreement"). Accordingly, last Thursday, I informed you, with Mr. Shaw present, that UTOPIA did not intend to renew the Services Agreement.

I further informed you that your day-to-day interaction with staff would immediately cease and that all further consultation through the end of the existing term of the Services Agreement would be directly with me. You asked for 24 hours to propose an extension of the Services Agreement, which I agreed to, yet I have heard nothing from you as of today's date, except for the letter and threatened Complaint your attorney sent Mr. Kane Loader and Mr. Shaw, with no copy to me. I note, however, that your attorney represented that your continued consultation under the existing term was made contingent upon a "discussion of who would direct UTOPIA forward." Such a representation, combined with your failure to contact me during the past week to perform any services whatsoever, constitute a breach of the Services Agreement.

I also note that in the draft Complaint there is no mention of UTOPIA's offer extended last Thursday to pay you through the end of the existing term, with no further services rendered, pursuant to a Termination Agreement, which you received and to which you have not responded.

Upon your submission of proper invoices (which have not been submitted for February or March 2011), you will be paid for all Services rendered through March 17, 2011, in accordance with the payment terms of the Services Agreement. Under Section 2.1 of the Services Agreement, no payment obligation is incurred by UTOPIA until invoices are received. Payment for Services between March 18, 2011, and May 12, 2011, is and will continue to be contingent upon your performance of Services during that period of time in accordance with the Statement of Work. Specific Services set forth in the Statement of Work and which are not yet completed include, without limitation, "Web Portal Design and Implementation" and "Organizational Development" which we have discussed previously to mean the "Balanced Scorecard" which you have committed to deliver to UTOPIA, but have failed to do so at this point. These Services will need to be completed to accommodate any payments for Services between March 18, 2011, and May 12, 2011.

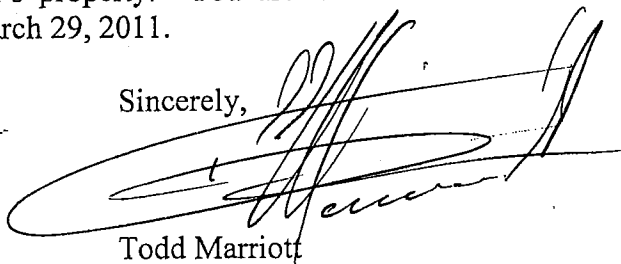
Alternatively, UTOPIA continues to extend its offer to enter into a Termination Agreement with you to formally terminate the Services Agreement immediately. The offer includes immediate discontinuance of your Services in exchange for compensation through the expiration date of May 12, 2011. **UTOPIA's offer remains open until 5:00 pm (Utah time) tomorrow, March 25, 2011, whereupon it will immediately expire. If you wish to accept the offer, we will need your signed Termination Agreement before 5:00 pm (Utah time) tomorrow.**

If you do not accept UTOPIA's offer, you will need to communicate with me your plan to satisfactorily complete the unfinished Services by May 12, 2011.

In all circumstances, you are hereby notified that the Services Agreement will not be extended beyond the expiration date of May 12, 2011. You are directed to review Section 7.1 of the Services Agreement which requires all modifications, amendments and supplements to be in writing and signed by both parties. No written extension of the Services Agreement has been entered into by UTOPIA, nor will it be.

Finally, you remain in possession of a cellular iPhone and Apple laptop and supporting hardware, bags and anything else purchased by UTOPIA, all of which is UTOPIA's property. All such items were extended to you as a courtesy, and are not required contractually to be supplied by UTOPIA. Furthermore, they contain records which, pursuant to Article V of the Services Agreement, are UTOPIA's property. You are directed to return all such items to UTOPIA no later than Tuesday, March 29, 2011.

Sincerely,



Todd Marriott

Executive Director

Cc: UTOPIA Executive Committee
Kirt Sudweeks, Deputy Director and CFO
David Shaw, General Counsel

4846-0294-6825, v. 1

EXHIBIT D

FACSIMILE



136 EAST SOUTH TEMPLE, SUITE 1400, SALT LAKE CITY, UTAH 84111
PHONE: 801.303.5800 FAX: 801.322.0594

Date	March 24 , 2011
Fax No.	801-426-2101
Total Pages	8 (including the cover page)
To	David Shaw
From	Steve S. Christensen
Message	Please see attached Letter re: Chris Hogan Complaint against UTOPIA

Hard copy will be sent by U.S. Mail.

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL BACK AS SOON AS POSSIBLE.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.



136 EAST SOUTH TEMPLE, SUITE 1400 SALT LAKE CITY, UTAH 84111

STEVE S. CHRISTENSEN
ALSO LICENSED IN CALIFORNIA
LISA B. THORNTON
JAYSEN R. OLDROYD
CRAIG L. PANKRATZ
SAMUEL J. SORENSEN

OF COUNSEL
NORMAN H. JACKSON
JUDGE, UTAH COURT OF APPEALS (RET.)

March 24, 2011

STEVE S. CHRISTENSEN
ssc@ctlawfirm.net

David J. Shaw
Kirton & McConkie
Via facsimile: 801.426.2101

Re: Chris Hogan Complaint against UTOPIA

Dear Mr. Shaw:

The recent actions of UTOPIA's Executive Director, Todd Marriott, have left Mr. Hogan perplexed and frustrated. While Mr. Hogan served as an independent contractor, Mr. Marriott lauded Mr. Hogan as the person who pulled UTOPIA through its challenges and who saved the Brigham City project, thus providing the credibility necessary to secure additional bonds. Now, in a matter of a few short weeks, Mr. Hogan has become the pariah of UTOPIA and is unworthy to associate with it.

Mr. Hogan is passionate about UTOPIA and wants nothing more than its success. Throughout the course of his dealings with UTOPIA, his primary objectives have been to protect the public trust and to protect the well-being of its member cities. These continue to be his primary objectives. He is acutely aware that public scrutiny spurred by members of the media threatens to destroy the work of UTOPIA. Although his lawsuit may be necessary to redress Mr. Hogan's rights under the contract and his expectations based on the conversations that he has had with the leaders of UTOPIA, he would prefer to resolve this case without public scrutiny. He wants UTOPIA to succeed.

I understood from our conversation on March 21, 2011 that UTOPIA was taking the position that Mr. Hogan's contract was not terminated and that there is still an open discussion about renewal of that contract. The various actions of UTOPIA contradict your statement. From Mr. Hogan's perspective, if UTOPIA continues in its current course, it will fail. With the success of UTOPIA in mind, here is a list of Mr. Hogan's requirements. If UTOPIA agrees to these requirements, Mr. Hogan will accept them in full satisfaction of his claims. A copy of Mr. Hogan's invoices from February 1, 2011 to the present are enclosed with this letter (note that because March is mid-month the expenses for the month have not yet been determined and will be presented at a later time). These invoices must be paid regardless of whether the other terms in this letter are accepted and agreed to by the Executive Committee. Mr. Hogan still has a company computer and cell phone and will return them to the company upon demand by the company.

1. Mr. Hogan demands the opportunity to speak freely, outside of the presence of Todd Marriott ("Mr. Marriott"), with UTOPIA's Executive Board;
2. UTOPIA must pay Mr. Hogan \$161,000 for his expectation damages of employment for the next fourteen months;
3. UTOPIA must pay Mr. Hogan \$28,000 for the value of the use of an apartment as part of his employment contract;
4. UTOPIA must pay Mr. Hogan \$20,000 for punitive damages for the malicious and humiliating way in which it terminated his contract, terminated the company's lease of an apartment for him, harassed him and his landlord, and harassed his wife by sending a cease and desist text to her cell phone and
5. UTOPIA must pay Mr. Hogan's legal fees of \$10,000.00.

At this time, Mr. Hogan intends to file his lawsuit. Mr. Hogan feels strongly that Mr. Marriott has failed to protect the public trust and UTOPIA's member cities for the following reasons:

First, Mr. Hogan has been under direct pressure from Mr. Marriott to interview and hire a friend and neighbor of Mr. Marriott's, Gary Jones, for 'any' position in the marketing department despite advising Mr. Marriott that there were no positions that fit this person's background. Mr. Hogan had previously made an offer for the position of Public Policy Director which is part of the marketing department with Mr. Marriott's approval. Prior to the new Public Policy Director starting in the role, Mr. Marriott told Mr. Hogan he didn't remember giving permission to make the offer despite an email thread showing otherwise. Mr. Marriott said Gary Jones would be a much better fit for that position despite having no experience or education in government or public policy. After a heated discussion which involved Mr. Hogan vehemently resisting unfair advantage to a friend of Mr. Marriott and the unprofessional nature of retracting the offer to the original candidate, Mr. Marriott acquiesced. It has come to Mr. Hogan's attention that Mr. Marriott has recently hired this same Gary Jones at least in the short term to replace Mr. Hogan in a marketing director role. This appears to be the primary purpose for removing Mr. Hogan and is another indication of a consistent pattern of favoritism further outlined below.

Second, Mr. Hogan believes that Mr. Marriott's conduct jeopardizes UTOPIA's success. UTOPIA has been criticized and scrutinized by public officials and the media from the time it was created. Public opinion of UTOPIA remains tenuous, and even a small scandal could destroy any positive public opinion that it has built up. Inasmuch as UTOPIA is funded by taxpayer bonds, if the taxpayers of its member cities lose confidence in it, they will not continue to support the network through immediate and future bonding. Mr. Hogan believes that transparency and avoiding the appearance of impropriety are the only ways that UTOPIA can maintain public trust sufficient to receive the funding necessary to accomplish its mission. But Mr. Marriott has

jeopardized UTOPIA's existence by failing to disclose UTOPIA's dealings and critical information, which may have the appearance of impropriety.

Mr. Marriott's conduct in the current Request For Proposal ("RFP") process to install the network underscores how his conduct jeopardizes the very existence of UTOPIA. Initially, the RFP began as requests for two independent jobs. Tetra Tech, a company that has disfavored status with UTOPIA, submitted a proposal. Ryan Marriott ("Ryan Marriott"), Mr. Marriott's brother, was recently hired as an executive of Tetra Tech. The RFP was later withdrawn and is planned to be reissued as a consolidated RFP. Mr. Hogan has information that a major company intends to submit a proposal in which it would act as the general contractor and it would subcontract with Tetra Tech to provide curb to home installation.

There may be nothing wrong with the company's proposal, but it could lead the public to believe that Mr. Marriott and his brother were engaging in favoritism. Were Ryan Marriott to benefit from the contract from UTOPIA without prior disclosure to the Executive Board of Utopia, the media or rejected applicants could destroy UTOPIA in the press.

It was this eventuality that led Mr. Hogan to encourage Jarrod Pantier to bring this issue to the UTOPIA Executive Board to ensure that UTOPIA did not enter into a contract that endangered its continual success and existence. Or at the very least ensure there was complete transparency regarding the issue of possibly indirectly contracting with the disfavored Tetra Tech and Ryan Marriott.

Even though Mr. Hogan was motivated by nothing more than the success of UTOPIA, Mr. Marriott, immediately thereafter, accused him of insubordination. Despite the fact that Mr. Hogan is not an employee of UTOPIA, Mr. Marriott prepared a termination agreement and presented it to Mr. Hogan telling him that he was dismissed from employment for insubordination.

After Mr. Hogan declined to sign the termination agreement, Mr. Marriott began sending texts to Mr. Hogan's wife's cell phone to remind Mr. Hogan that he had agreed to keep his dealings with UTOPIA confidential. One of Mr. Marriott's employees also contacted the landlord (a prominent and influential political figure in the state of Utah) of the apartment where Mr. Hogan is living and directing him to deny Mr. Hogan access to the apartment. The landlord indicated the tone of the UTOPIA employee was combative and belligerent, causing him to question the professionalism of UTOPIA especially given that it is a public agency. The unprofessional nature with which this situation was handled left Mr. Hogan publicly humiliated with professionals whom he might attempt to seek employment with (the landlord is a key political figure in the state of Utah and Managing Partner of a major PR firm in Salt Lake City). Mr. Hogan had to assume the lease to ensure that he could remain in the apartment. Mr. Marriott also locked Mr. Hogan out of his workplace.



Mr. Hogan has also received information that after he refused to sign the termination agreement, a member of Mr. Marriott's executive staff has told employees of UTOPIA that Mr. Hogan had been committing crimes. The comment regarding crimes is slander and may in fact introduce and invoke an entirely separate legal liability against UTOPIA.

Third, Mr. Hogan believes that Mr. Marriott has lost the vision of UTOPIA. Recently, Mr. Marriott proposed that UTOPIA move beyond providing the fiber-optic network to its member cities and become a service provider with an intent to "kill" other service providers. UTOPIA was not created to be a service provider that would dominate the market. Rather, it was created to provide necessary infrastructure to service providers who could compete against incumbent monopolies and duopolies. This competition would benefit the citizens of UTOPIA's member cities by creating an environment that would increase the quality of available services while decreasing their cost. Mr. Marriott's proposal for UTOPIA to act as a service provider is contrary to the purpose and mission of UTOPIA and the intent of the law legislating inter-local municipal cooperatives.

Fourth, and finally, Mr. Marriott has failed to protect UTOPIA from potential lawsuits stemming from a hostile work environment in which fear, dishonesty, backbiting, selfishness, sexual innuendo and other inappropriate conversations are cultivated without repercussion by UTOPIA. Despite receiving complaints, his cavalier response in at least one incident further victimized the woman involved, exposing UTOPIA to liability for a sexual harassment lawsuit. In Mr. Hogan's opinion the severity of the adverse affects of the culture are evidenced in the departure of six staff members in the last three weeks, including the VP and Director of Marketing and the Director of Operations, immediately prior to the launch of UTOPIA's most aggressive growth plan.

Mr. Marriott has conducted himself unprofessionally and has endangered the success and existence of UTOPIA by granting favor to his friends and family, by not providing complete transparency to the UTOPIA stakeholders and by failing to protect the public trust. Should Mr. Marriott be removed by the Executive Board as Executive Director, Mr. Hogan would consider returning to UTOPIA for a period, not to exceed 14 months, under the following terms:

1. UTOPIA must create and implement a plan immediately to begin the search for a new Executive Director.
2. Mr. Hogan has no interest as serving as the Executive Director, but he does want to participate in the search for and the training of the new Executive Director.
3. After UTOPIA finds and trains a new Executive Director, Mr. Hogan will present a succession plan for himself so there is a smooth transition. This plan will include a tender of his resignation immediately upon completing the transition to



- a new Executive Director and a new replacement for himself as the marketing consultant.
4. Mr. Hogan will have the same access to UTOPIA's technology, office, personnel and resources which he enjoyed before March 17, 2011 so long as he continues to act as a consultant to UTOPIA.
 5. In anticipation of his future resignation, Mr. Hogan and UTOPIA must agree to a mutually negotiated succession plan that would allow Mr. Hogan to terminate his contractual relationship with UTOPIA over a course of time that would allow for a smooth transition.
 6. UTOPIA must pay all money now owing to Mr. Hogan at the level described in his current contract through the end of his extended contract.
 7. Mr. Hogan will continue to lease his Salt Lake apartment in his name, but UTOPIA must provide reimbursement for all expenses Mr. Hogan has assumed in the apartment lease that UTOPIA had been previously providing for him.

Mr. Hogan also feels that it is necessary to address your allegations that he has breached his contract with UTOPIA by failing to develop and implement a web portal. First, a portal is understood to be a webpage or part of a website. Mr. Hogan developed a website in 2009 and has fulfilled his obligation. Second, even if the website did not satisfy the expectations of UTOPIA and Mr. Hogan's obligation under the contract, two months remains before Mr. Hogan's deadline to develop and implement the web portal. But he would need unfettered access to systems, resources, and staff to develop and implement the web portal which he has hitherto been unable to get and he has been locked out of his workplace. Mr. Marriott has also dismissed him for insubordination. Third, UTOPIA does not have any funding to develop and implement the web portal.

It is now impossible for Mr. Hogan to comply with the terms of the contract, and impossibility is a defense to any claim that he breached the contract.

Again, Mr. Hogan wants nothing more than the success of UTOPIA and hopes that these problems can be resolved quickly so that UTOPIA can continue to move forward productively. This offer will remain open until April 4, 2011 at 10:00 a.m. MST unless withdrawn before that time.

Very truly yours,
CHRISTENSEN THORNTON, PLLC

A handwritten signature in black ink, appearing to read 'Steve S. Christensen', written over the printed name.

Steve S. Christensen

Enclosures

Hogan Partners LL

INVOICE

3235 Soaring Eagle Lane
Castle Rock, CO
Phone 303.660.1863 cell 303.725.3315

DATE:
INVOICE #

March 23, 2011
L16

BILL TO:
UTOPIA
2175 S Redwood Rd
West Valley, Utah 84119
(801) 990-5450

DESCRIPTION		AMOUNT
Consulting Fee		
Monthly Fee February		\$ 11,500.00
		\$ -
		\$ -
		\$ -
Total		\$ 11,500.00

Payable to Hogan Partners

Signature: _____

Hogan Partners LL

INVOICE

3235 Soaring Eagle Lane
Castle Rock, CO
Phone 303.660.1863 cell 303.725.3315

DATE:
INVOICE #

March 23, 2011
L17

BILL TO:
UTOPIA
2175 S Redwood Rd
West Valley, Utah 84119
(801) 990-6450

DESCRIPTION		AMOUNT
Consulting Fee		
Monthly Fee March 1 - 16		\$ 5,935.48
		\$ -
		\$ -
		\$ -
Total		\$ 5,935.48

Payable to Hogan Partners, LLC

Signature: _____

EXHIBIT E

JARED G. ANDERSEN
DAX D. ANDERSON*
ROD N. ANDREASON
BRENT A. ANDREWSSEN
RANDY T. AUSTIN
MATTHEW C. BALLARD
LORIN C. BARKER
SARA N. BECKER
JASON W. BEUTLER
KENNETH W. BIRRELL
CHRISTOPHER E. BRAMHALL
N. KENNETH BURRSTON**
TYLER L. BUSWELL
THOMAS K. CHECKETTS
CHRISTIAN S. COLLINS
DAVID R. CONKLIN*
CHARLES W. DAHLQUIST, II
NIKKI M. DAVIS
KAREN T. DELPRIORE
LANCE A. DUNKLEY
ALEXANDER DUSHKU
JAMES E. ELLSWORTH
DAVID S. EVANS
WALLACE O. FELSTED
R. BRUCE FINDLAY
RYAN B. FRAZIER
STEPHEN W. GEARY
JULIE H. GHEEM*
DAVID L. GLAZIER
CHAD A. GRANGE
KIRK W. GRIMSHAW
R. SHAWN GUNNARSON**
DAVID J. HARDY

BENSON L. HATHAWAY, JR.
READ R. HELLEWELL
DAVID A. HILDEBRANDT**
CHRISTOPHER S. HILL
KENNETH E. HORTON*
LOYAL C. HULME
DALE E. HULSE*
LEE FORD HUNTER
ROBERT C. HYDE
SCOTT E. ISAACSON
ALLISON P. JOHANSON
RANDY K. JOHNSON
RICHARD G. JOHNSON, JR.
MICHAEL D. JOHNSTON
ADAM M. KAAS
VON G. KEETCH
BRYANT J. KELLER
RAEBURN G. KENNARD
MICHAEL F. KRIEGER*
KARINA F. LANDWARD
RONALD D. MAINES
JAROD R. MARROTT*
DANIEL S. MCCONKIE
DAVID M. MCCONKIE
OSCAR W. MCCONKIE, III
LYNN G. MCMURRAY
WILLIAM A. MEADERS, JR.
THOMAS A. MECHAM
ANTONIO A. MEJIA
BARBARA V. MELENDEZ
CRAIG METCALF*
GREGORY S. MOESINGER
THOMAS L. MONSON

**KIRTON &
McCONKIE**
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
UTAH COUNTY OFFICE
PINEHURST BUSINESS PARK
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FAX (801) 426-2101
www.kmclaw.com

MERRILL F. NELSON
ERIC C. OLSON
R. WILLIS ORTON
ALEXANDER N. PEARSON
JACKIE PILLING
ROBERT S. PRINCE
STEPHANIE W. PUGSLEY
WILLIAM T. RALSTON*
MATTHEW K. RICHARDS
SHAWN T. RICHARDS
ERIC B. ROBINSON
JOSHUA S. RUPP*
C. GABRIEL SANCHEZ*
PAUL K. SAVAGE
ANTHONY W. SCHOFIELD
M. THOMAS SCHOFIELD
PETER C. SCHOFIELD
DAVID J. SHAW
TIFFANY SMITH
SAUL A. SPEIRS*
JUSTIN W. STARR
ADAM D. STEVENS*
SWEN R. SWENSON
PATRICK J. THURSTON
DAVID B. TINGEY*
JARED S. TURNER
JON E. WADDUPS
ADAM D. WAHLQUIST
DAVID M. WAHLQUIST
THOMAS D. WALK
ROBERT D. WALKER
ROBERT R. WALLACE
STEVEN L. WHITEHEAD

CARLY W. WILLIAMS
R. GARY WINGER
EVAN R. WITT*
MATTHEW D. WRIDE
JOEL D. WRIGHT
LEE A. WRIGHT
ELAINE C. YOUNG
TODD E. ZENGER*

OF COUNSEL:
EUGENE H. BRAMHALL
GREGORY G. CLARK*
MICHAEL L. JENSEN
ROBERT B. LAMB
RICHARD H. PAGE*
JOHN A. ZACKRISON*

* REGISTERED PATENT ATTORNEY
** ALSO LICENSED TO PRACTICE IN DISTRICT
OF COLUMBIA
+ ALSO LICENSED TO PRACTICE IN CALIFORNIA
LICENSED TO PRACTICE ONLY IN CALIFORNIA
* LICENSED TO PRACTICE IN TEXAS AND KANSAS
* LICENSED TO PRACTICE ONLY IN MEXICO
V LICENSED TO PRACTICE ONLY IN OKLAHOMA

WILFORD W. KIRTON
(1922-2000)
OSCAR W. MCCONKIE, JR.
(RETIRED 2008)

SALT LAKE CITY OFFICE
80 EAST SOUTH TEMPLE, SUITE 1800
SALT LAKE CITY, UTAH 84111-1032
TELEPHONE (801) 328-3800
TOLL FREE (866) 867-5135
FAX (801) 321-4893

April 4, 2011

Via Fax: (801) 322-0594

Steve S. Christensen, Esq.
Christensen Thornton, PLLC
136 East South Temple, Suite 1400
Salt Lake City, Utah 84111

Re: Chris Hogan

Dear Mr. Christensen:

This letter is in response to your settlement proposal dated March 24, 2011 sent on behalf of your client, Chris Hogan. Specifically, Mr. Hogan proposes that UTOPIA do the following:

1. Allow Mr. Hogan the opportunity to speak freely, outside of the presence of Mr. Marriott with UTOPIA's Executive Committee.
2. Pay Mr. Hogan \$161,000 for his expectation damages of employment for the next fourteen months.
3. Pay Mr. Hogan \$28,000 for the value of the use of an apartment as part of his employment contract.
4. Pay Mr. Hogan \$20,000 for punitive damages for the way in which it terminated his contract, terminated the company's lease of an apartment for him, allegedly harassed

him and his landlord, and allegedly harassed his wife by sending a cease and desist text to her cell phone.

5. Pay Mr. Hogan's legal fees of \$10,000.
6. Create and implement a plan immediately to begin the search for a new Executive Director.
7. Allow Mr. Hogan to participate in the search for and the training of the new Executive Director.
8. Allow Mr. Hogan to present a succession plan for himself, but only after UTOPIA finds and trains a new Executive Director, as well as a new replacement for Mr. Hogan as the marketing consultant.
9. Grant Mr. Hogan access to UTOPIA's technology, office, personnel and resources.
10. Agree to a mutually negotiated succession plan allowing Mr. Hogan to terminate his contractual relationship with UTOPIA over an unstated course of time.
11. Pay all money now owing to Mr. Hogan through the end of his extended contract.
12. Allow Mr. Hogan to continue to lease an apartment in his own name, but at UTOPIA's expense.

You further state that, if UTOPIA does not acquiesce to each of Mr. Hogan's demands outlined above, he will subject UTOPIA to unfavorable public scrutiny, all the while openly acknowledging that such scrutiny "threatens to destroy the work of UTOPIA." Then, with some irony, Mr. Hogan caps these extravagant demands by claiming the altruistic motive of seeking to protect UTOPIA and the well-being of its member cities.

We should be candid. What Mr. Hogan attempts in proposing this extravagant course, at least as he frames the matter and perceives UTOPIA's interests and vulnerabilities, go by the names of "blackmail" and "extortion." None of the demands above are anchored in any legal agreement between UTOPIA and Mr. Hogan or arise as the result of any common law duty that UTOPIA owes to Mr. Hogan. So striking is the disconnect between what Mr. Hogan apparently has told you and professes his role to have been with UTOPIA and the reality as set forth in the documentary record that I must genuinely question whether you have actually seen a copy of Mr. Hogan's Professional Services Agreement. In case you have not, I enclose a copy for your convenience.

The terms of the Professional Services Agreement control the parties' rights and obligations. You will note the obligation undertaken by Mr. Hogan in Article IV of the Agreement. In light of Mr. Hogan's open threat to subject UTOPIA to public scrutiny, please certify to me no later than April 4, 2011, at 5:00 p.m., that Mr. Hogan will abide by the restrictions imposed on him in Article IV, which requires him to maintain the confidentiality of

all Services (as defined in the Agreement) provided to UTOPIA. If Mr. Hogan fails to confirm his compliance with this contractual provision by the specified time, UTOPIA will seek injunctive relief against Mr. Hogan to secure compliance with Article IV, the only meaningful remedy that UTOPIA has to secure compliance.

While this letter will not respond point by point to Mr. Hogan's erroneous facts, one particularly egregious misstatement requires clarification now. You assert that Mr. Marriott "in at least one incident further victimized the woman involved [in a sexual harassment matter], exposing UTOPIA to liability for a sexual harassment lawsuit." The facts are these: Mr. Hogan directly supervised the female employee involved and strongly urged Mr. Marriott to do nothing at all. Mr. Hogan's recommendation to do nothing, not Mr. Marriott's proactive response to the situation, would have exposed UTOPIA to liability. The matter needed to be handled by management, and it was.

In brief response to Mr. Hogan's demands as set forth above, UTOPIA states as follows:

Demand #1: The Executive Committee has no desire to meet independently with Mr. Hogan.

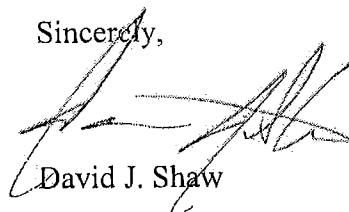
Demand #2: Mr. Hogan's reliance claims are unfounded and in direct contradiction to Section 7.1 of the Agreement. His insistence on reinstatement of his "employment contract" contradicts the Agreement and Mr. Hogan's own assertions that he is an independent contractor, not an employee. This remedy is not available under the Agreement.

Demand #3-10, 12: There is no contractual basis for these demands.

Demand #11: UTOPIA has had no further communication from Mr. Hogan in regards to the completion of his current Agreement and Statement of Work. UTOPIA's offer to pay Mr. Hogan through the end of the current Term, with no obligation of performance on Mr. Hogan's part has now expired. Unless Mr. Hogan can affirmatively demonstrate his full completion with the Statement of Work in accordance with the terms of the Agreement including, without limitation, Section 6.1, UTOPIA will pay nothing beyond the invoiced amounts you provided in your March 24th correspondence, which will be paid in accordance with the Agreement.

Please be advised that UTOPIA reserves all rights and remedies available at law and in equity relative to Mr. Hogan's actions and inactions, including all past and current breaches of the Services Agreement. Pursuant to the Services Agreement, nothing in this correspondence, or in the course of conduct between Mr. Hogan and UTOPIA, is to be construed as a waiver by UTOPIA of any of its rights, defenses or remedies.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Shaw", is written over the typed name.

David J. Shaw

COPY

AGREEMENT
for
PROFESSIONAL SERVICES
between
UTOPIA
and
Chris Hogan, Consultant

This Agreement is made as of the 12 day of May, 2009 (the "Effective Date"), between the Utah Telecommunication Open Infrastructure Agency, an interlocal cooperative agency organized under the laws of the State of Utah ("UTOPIA"), and Christopher Hogan, Consultant.

RECITALS:

WHEREAS, UTOPIA is in need of professional services (the "Services") as further defined herein; and

WHEREAS, Consultant has substantial experience performing services similar to those required by this Agreement; and

WHEREAS, pursuant to UTOPIA's Procurement Policy no informal or formal procurement process is required to procure Consultant's Services; and

WHEREAS, UTOPIA wants to retain the Consultant's Services, and Consultant is willing to perform the Services.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

AGREEMENT:

ARTICLE I. SCOPE OF WORK

Section 1.1. Services

Consultant shall perform the following services ("Services"):

- (a) Generally, Consultant shall be responsible for all sales, marketing, business development, operations, IT, and engineering efforts regarding the UTOPIA network.

Section 1.2. Compensation

Compensation is as outlined in Exhibit A – “Statement of Work”

ARTICLE II. UTOPIA will compensate Consultant for the Services as set forth.

Section 2.1. Payment

UTOPIA will pay Consultant all undisputed invoiced amounts within thirty (30) days of UTOPIA's receipt of invoice. In the event UTOPIA disputes any invoiced amounts, the parties will work expeditiously to resolve such dispute, whereupon UTOPIA will pay Consultant as agreed upon in such resolution. Late payments on undisputed invoices will be subject to a 1% per month late fee.

ARTICLE III. TERM AND TERMINATION

This Agreement will be deemed commenced as of the Effective Date and will continue for twelve (24) months.

ARTICLE IV. CONFIDENTIALITY

Consultant understands that the Services performed for UTOPIA are confidential and Consultant agrees to maintain such confidentiality. This ARTICLE IV. shall survive the termination of this Agreement.

ARTICLE V. OWNERSHIP OF DOCUMENTS

All documents, notes, work papers, formulas, files, research, maps, and other records, whether in hard copy, electronic or any other format (“Records”), and all rights pertaining thereto of any kind, produced by or in Consultant's possession in connection with this Agreement, without limitation, shall become and remain UTOPIA's property. UTOPIA shall have the right to use such Records without restriction or limitation and without further compensation to Consultant. All Records created by Consultant shall constitute “works for hire” under U.S. Copyright laws and UTOPIA shall retain all rights associated therewith. This ARTICLE V. shall survive the termination of this Agreement.

ARTICLE VI. REPRESENTATIONS, INDEMNIFICATION

Section 6.1. Representations.

Consultant represents and warrants that Consultant is free to enter into this Agreement and that Consultant is under no disability, restriction, or prohibition that will interfere in any manner with Consultant's full compliance with and performance under this Agreement. Consultant warrants that Services will be of good quality and to the reasonable satisfaction of UTOPIA. Consultant also warrants and represents that no Services provided to the UTOPIA hereunder will infringe or violate any right of any person or firm and that UTOPIA may exploit such Services provided hereunder without liability or obligation to any person or firm.

Section 6.2. Indemnification.

Consultant agrees to indemnify, hold harmless and (at Indemnitee's option) defend UTOPIA, its member municipalities and each of their employees, officers, directors, contractors, representatives, employees, agents, insurers, attorneys, successors and assigns (the "Indemnitees") for, from and against any and all claims, causes of action, damages (including, without limitation, all foreseeable and unforeseeable consequential damages, injunction and other relief), fines, judgments, penalties, costs, liabilities, losses or expenses (including, without limitation, experts' and consultants' costs, attorneys' fees and reasonable investigative and discovery costs) arising prior to, during or after the term of this Agreement on account of or in connection with, or directly or indirectly related to: (i) the acts or omissions of the Consultant, its agents, servants, employees, contractors, guests and invitees (collectively, the "Consultant's Agents") in the performance of this Agreement or the delivery of any Services; (ii) the violation of law by the Consultant or the Consultant's Agents; (iii) Consultant's untrue representation or warranty; and (iv) the use, reproduction, distribution, sale or other commercialization of Services in violation of rights under any patent, copyright, trademark, or other intellectual property right or application for the same. Consultant's obligations with respect to indemnification hereunder shall remain effective, notwithstanding the expiration or earlier termination of this Agreement, as to claims arising or accruing prior to the expiration or earlier termination of this Agreement. Consultant shall not be required to indemnify or defend any Indemnitee against any injury, loss of life, or damage which is caused by the sole negligence or willful misconduct of any Indemnitee.

ARTICLE VII. MISCELLANEOUS PROVISIONS

Section 7.1. Amendments

No modifications, amendments or supplements to this Agreement shall be effective for any purpose unless in writing, signed by each party.

Section 7.2. Conflict of Interest

Consultant covenants that it does not now, nor will it acquire any interest, direct or indirect, which may in any manner conflict with Consultant's performance under this Agreement unless such conflict is waived in writing by UTOPIA in advance.

Section 7.3. Employment Status

Services rendered by Consultant pursuant to this Agreement are not rendered as a UTOPIA employee and amounts paid under this Agreement do not constitute compensation paid to an employee. The parties expressly agree that Consultant is an independent contractor and not an employee of UTOPIA, and as such, Consultant is solely responsible for her own employment taxes, worker's compensation premiums and similar expenses. UTOPIA assumes no liability for Consultant's actions and Consultant agrees to indemnify and hold UTOPIA harmless from and against any third party claims brought as a result of Consultant's Services.

Section 7.4. Assignment of Rights

The rights of each party under this Agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation or other entity without the prior, express, and written consent of the other party. Any transfer stock, assets, or any other change in control in the ownership or management of Consultant shall be deemed an assignment hereunder and shall require prior, express, and written consent of UTOPIA.

Section 7.5. Applicable Law

This Agreement and Consultant's obligations and Services hereunder are made and must be performed in compliance with all applicable federal, state, and local laws. The interpretation and enforcement of this Agreement shall be pursuant to the laws of the State of Utah without regard to conflicts of law principles..

Section 7.6. Jurisdiction and Venue

Any dispute arising from or related to this Agreement shall be brought in Third Judicial District Court of Utah, Salt Lake County, if in state court, or the United States District Court of Utah, if in federal court.

Section 7.7. Time is of the Essence

The parties acknowledge and agree that TIME IS OF THE ESSENCE in Consultant's performance of the Services hereunder.

Section 7.8. No Authority to Bind

Consultant expressly acknowledges and agrees that no actions undertaken by Consultant in the performance of the Services with respect to any third parties shall be binding upon UTOPIA except through UTOPIA's express written agreement with such third parties. Consultant covenants and warrants that it will not represent, expressly or impliedly, to any third party that such authority exists. Consultant shall be liable to UTOPIA for any third party obligations which may arise as a result of Consultant's violation of this Section 7.8.

Section 7.9. Severability

In the event that any provision of this Agreement is declared void, invalid or unenforceable by a regulatory agency, tribunal or court of competent jurisdiction, the remainder of the Agreement shall continue in full force and effect as if the offending provision were not contained herein, and the offending provision shall be replaced by a mutually acceptable and valid provision which comes closest to the intention of the parties underlying the offending provision. If the parties cannot reasonably agree on a replacement provision and the offending provision is material to the Agreement, either party may terminate the Agreement upon written Notice to the other party, provided that all obligations of a party which shall have accrued prior to the date of termination shall be fulfilled by the party.

Section 7.10. Arms' Length Negotiation; Attorney Review; Construction

The parties mutually acknowledge that the provisions of this Agreement are the product of arm's-length negotiations with both parties having essentially equal bargaining strength, access to legal representation of its choice and opportunity to determine the language used herein. The provisions of this Agreement shall not be construed for or against either party. The captions and headings of this Agreement are for ease of reference and shall not be deemed to define or limit the scope of any of the terms, covenants, conditions or Agreements contained herein or in any exhibit attached hereto. As used herein, all words in any gender shall be deemed to include the masculine, feminine or neuter gender, all singular words shall include the plural, and all plural words shall include the singular, as the context may require.

Section 7.11. Entire Agreement

This Agreement, together with any Statements of Work, exhibits, schedules and purchase orders, constitutes the entire Agreement and understanding of the parties

concerning the subject matter hereof. It supersedes any and all contracts, arrangements, commitments, understandings, dealings, and offers, whether oral or written, heretofore made by the parties with reference to the subject matter hereof.


Section 7.12. Non-Waiver

Any failure by either party to exercise any of its rights hereunder shall not be deemed a waiver of any rights or remedies that such party may have, and shall not be deemed a waiver of any subsequent breach or default.

(Signature Page to Follow)

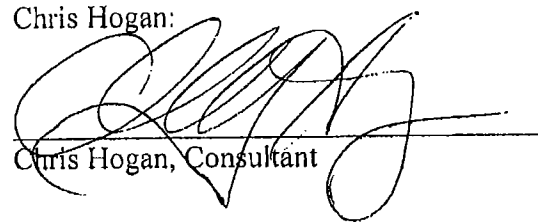
ENTERED INTO as of the Effective Date written above.

UTOPIA:



Todd Marriott, Executive Director

Chris Hogan:



Chris Hogan, Consultant

Exhibit A

Statement of Work

Chris Hogan

Version 0.0
May 12, 2009

Presented by:
Chris Hogan

Time and materials

Client name	Utopia
Client's administrator	Todd Marriott
Project name	UTOPIA
Engagement duration	Twenty four (24) months
Begin date	May 15, 2009
End date	May 14, 2011

Schedule of rates

Item description	Delivery schedule	Cost (monthly)
Consulting Fee	Invoice	\$11,500

Payment terms

Phase	Completion date	Payments due
Term	May 14, 2011	Monthly

Statement of work

Assumptions

This Statement of Work ("SOW") is made as of May 12, 2009 between Chris Hogan an independent telecommunications consultant having his principal place of business at 3235 Soaring Eagle Lane, Castle Rock, CO 80109 and Utopia with principal offices at 2175 S. Redwood Road, West Valley City, UT 84119 ("Client") (collectively, "Parties"). This project associated with helping Utopia launch its new marketing and business plan will be referred to as 'New Market Strategy'. The purpose of this statement of work is to define the body of work to be performed in helping Utopia develop and successfully implement the New Market Strategy and develop a transition plan to maintain long term sustainability. The initial statement of work is defined as a twelve-month consecutive period. Subsequent statements of work will be defined by Utopia and Chris defined prior to the expiration of the based on an as needed basis and can be either defined as a monthly arrangement or longer if deemed necessary by Utopia. Prior to the expiration of the initial phase both Utopia and Chris Hogan will agree the length of future statements of work.

Chris Hogan will, with an effective date of May 15, 2009, contract directly with Utopia and work under the direct reporting relationship of Todd Marriot, Utopia Executive Director and the Utopia Board of Directors. Chris Hogan will primarily work out of the Utopia offices in Utah.

Change management process

Any changes to the agreed SOW will be agreed in advance of the change implementation by both Utopia and Chris Hogan.

Engagement related expenses

All expenses incurred as a result of this engagement will be submitted for approval by Utopia with all supporting documentation. Expenses relating to the actual New Market Strategy will be considered program expenses and outside of this SOW and defined in the project budget.

Professional services agreement

This SOW will envelope all Marketing and Operational activities related to building and maintaining the growth and development of the UTOPIA organization. Deliverables are defined below but not limited to only these listed - as the plan will evolve over time. This SOW will include any and all deliverables deemed necessary and agreed by Chris and UTOPIA to build and maintain all marketing and operational related activities.

Marketing

- Brand
- Media and Collateral development
- Community Partner Development
- Channel Partners
- Media Plan development and execution
- PR Plan
- Portal Development and Implementation
- Service Provider recruitment and management
- Project Budget
- Sales Development
 - Create a sales strategy for both the residential, business, and long haul categories. Hire and manage the sales/channel teams

Operational Development

- NOC
- Engineering
- IT

Organizational development

Business Development

Acceptance and authorization

IN WITNESS WHEREOF, the parties hereto each acting with proper authority have executed this Statement of Work, under seal.

Utopia

Full name

Exec. Director

Title

Signature

Date

May 15, 2009

Chris Hogan

Full name

Title

Signature

Date

May 12, 2009

EXHIBIT F



CHRISTENSEN THORNTON, PLLC

136 EAST SOUTH TEMPLE, SUITE 1400 SALT LAKE CITY, UTAH 84111

STEVE S. CHRISTENSEN

ALSO LICENSED IN CALIFORNIA

LISA B. THORNTON

JAYSEN R. OLDROYD

CRAIG L. PANKRATZ

SAMUEL J. SORENSEN

OF COUNSEL

NORMAN H. JACKSON

JUDGE, UTAH COURT OF APPEALS (RET.)

April 11, 2011

STEVE S. CHRISTENSEN

ssc@ctlawfirm.net

David J. Shaw
Kirton & McConkie
Via facsimile: 801.426.2101

Re: Chris Hogan Complaint against UTOPIA

Dear Mr. Shaw:

I am in receipt of your recent letter regarding Mr. Hogan.

Before I address anything else, I believe that you have misunderstood Mr. Hogan and me. It has never been our intent to extort or blackmail UTOPIA. Rather, we are seeking to vindicate Mr. Hogan's rights while shielding UTOPIA from public scrutiny. He does not seek to receive anything more than what lawfully belongs to him from UTOPIA. If his previous demands are not acceptable to the Board, he proposes that the parties meet together in a formal mediation to work through these issues with UTOPIA

To ensure that UTOPIA does not continue to misunderstand Mr. Hogan, here are his objectives:

- Objective 1. Protect the Public Trust;
- Objective 2. Ensure UTOPIA's success;
- Objective 3. Vindicate his rights for being wrongfully terminated.

Mr. Hogan has proceeded in the way that he feels will accomplish all three of his objectives. He knows UTOPIA's history. He knows that the public has had a poor opinion of UTOPIA for years. He also knows that UTOPIA depends on the public for funding. If the public were to learn that UTOPIA were considering the award of a lucrative contract that benefitted the brother of UTOPIA's Executive Director, he believes public opinion would plummet. In addition, if the public were to learn that UTOPIA's executive director terminated UTOPIA's contract with Mr. Hogan simply because he expressed his concerns about this potential conflict, he believes the public

would lose even more confidence in UTOPIA. And then to learn further that Mr. Hogan was replaced within two days by Mr. Marriott's neighbor – someone Mr. Marriott had pressured Mr. Hogan to interview and hire even though Mr. Hogan did not have a position for someone with the neighbor's skills. It is likely that this information will not play out well in the public domain especially since UTOPIA has many enemies that would use this information to their advantage and UTOPIA's detriment.

Again, so that you do not misunderstand, I will outline Mr. Hogan's thought processes about his options.

Mr. Hogan has considered doing nothing. But by doing nothing, he feels that he will betray the public trust. UTOPIA is accountable to tax payers. Their money is precious and should be managed accordingly. Complete transparency throughout UTOPIA's dealings is absolute for a government agency to avoid the perception of backroom deals and mismanagement, which betray the public trust. If he does nothing, Mr. Hogan feels that UTOPIA will not succeed. He believes that UTOPIA's executive director is mismanaging UTOPIA and that it is only a matter of time before UTOPIA fails. Therefore, by doing nothing, he will not accomplish any of his objectives.

Mr. Hogan has considered filing a lawsuit asserting various claims related to his wrongful termination. Filing a lawsuit will protect the public trust by exposing what he believes is mismanagement. A lawsuit will also vindicate his rights. Unfortunately, owing to the public's already precarious public opinion of UTOPIA, Mr. Hogan fears that a lawsuit will destroy any faith that the public has in UTOPIA. He is aware that the media tracks legal filings. If the media, which has already been critical of UTOPIA, learns of the lawsuit, it will recommence its assault on UTOPIA. Such an assault would likely destroy public faith in UTOPIA. Without public faith, UTOPIA will not receive public funding. Without public funding, UTOPIA will fail. Therefore, by filing a lawsuit, he will accomplish the most important of the three objectives and that is to protect the public trust.

Finally, Mr. Hogan has considered trying to get UTOPIA's leaders' attention to persuade them to make necessary changes. Persuading UTOPIA's leaders to make changes will protect the public trust by ensuring that tax payer money is being managed appropriately. Persuading UTOPIA's leaders to make changes will also ensure that UTOPIA succeeds. Finally, if he had the attention of UTOPIA's leaders, he could vindicate his rights in a mutually acceptable manner. Therefore, getting UTOPIA's leaders' attention to persuade them to make necessary changes will accomplish all three of his objectives. Because he believed that trying to get UTOPIA's leaders' attention would accomplish all three of his objectives, Mr. Hogan requested that my firm prepare a mock complaint and serve it on the executive board.

Mr. Hogan knows that accomplishing all three of his objectives requires UTOPIA's cooperation. But the actions of UTOPIA's leaders has indicated that they are not only unwilling to cooperate, they won't even engage in a dialogue. They have threatened to call the police to recover property that is valued at approximately one or two thousand dollars while they withhold payment for services Mr. Hogan rendered through March 17, 2011 totaling more than \$17,000 dollars.

With the goal of accomplishing all three of his objectives, Mr. Hogan wants to negotiate with UTOPIA. He wants to talk to the executive board and is frustrated that the mock complaint and his demand letter were not enough to gain an audience with the board. He has many ideas that he believes will ensure the future success of UTOPIA while protecting the public trust. And he is willing to negotiate a way to vindicate his rights.

However, if UTOPIA is not willing to work with him to accomplish his objectives and work out an amicable solution, Mr. Hogan will act in the way that he believes will accomplish as many of his objectives as possible. He believes in UTOPIA. He wants UTOPIA to succeed. But he cannot stand idly by while UTOPIA's leaders trample on both the public trust and his legal rights. If UTOPIA refuses to redress its offenses against him, he, albeit reluctantly, will file a complaint against it.

We also feel it necessary to inform you that Mr. Hogan's formal complaint will include additional claims which were not included in the mock complaint. We have now had sufficient time to research Mr. Hogan's situation thoroughly and extensively. And we have determined that Mr. Hogan is entitled to recovery on multiple additional grounds. Primarily, Mr. Hogan intends to assert a claim that UTOPIA, as a government actor, violated his First Amendment rights when it terminated him for speaking to Mr. Pantier. As the basis for this claim, I refer you to *Bd. of County Comm'rs v. Umbehr*, 518 U.S. 668 (1996), *Lebron v. Nat'l R.R. Passenger Corp.*, 513 U.S. 374 (1995), and *Brentwood Acad. v. Tenn. Secondary Sch. Athletic Ass'n*, 531 U.S. 288 (2001).

Please urge UTOPIA's executive board to reconsider meeting with Mr. Hogan. Granting him an audience with UTOPIA's executive board will be an adequate show of good will to postpone the filing of a lawsuit. Hopefully, it will be the first step of many that will result in accomplishing all three of his objectives.

UTOPIA has until 5:00 p.m. Tuesday, April 12, 2011, to agree to grant Mr. Hogan an audience with the executive board. If UTOPIA does not grant him an audience with the executive board, he will file his lawsuit.

Mr. Hogan would like me to address some issues that you brought up in your communications with him. Regarding your attack on his claim for promissory estoppel, Mr. Hogan has substantial evidence, including the recorded conversation which led

directly to Mr. Marriott's termination. In fact, you were party to at least one conversation during which he outlined his succession plan that extended, at the time, through the end of 2011. His plan included his working as a consultant for at least the first year of UTOPIA's new five year plan. Approximately sixty days before Todd Marriott terminated him, he and Mr. Hogan were working on Mr. Hogan's succession plan. In fact, Mr. Marriott expressly approved the concept and timing of the proposed succession plan.

Additionally, there was no indication prior to the wrongful termination of Mr. Hogan's contract that UTOPIA was dissatisfied with his work. On the contrary, UTOPIA had expanded his responsibilities and given him command of Operations for UTOPIA just weeks before Mr. Marriott informed him that he was dismissed.

Mr. Hogan also feels that it is necessary to give additional facts to supplement your assertion that Mr. Marriott took no action related to the allegations of sexual harassment at Mr. Hogan's request.

While you, Mr. Marriott, and Mr. Hogan were in Costa Rica developing business for GigNation, Mr. Hogan was having a Google chat conversation with an employee. She informed him of what happened. While Mr. Hogan was conversing with the employee, Mr. Marriott was eavesdropping and read about the allegations.

Mr. Hogan asked Mr. Marriott not to take action yet inasmuch as no formal complaint had been filed. Instead, Mr. Hogan suggested that Mr. Marriott first speak with the alleged offender to counsel him about proper conduct in the work environment. Next he suggested that Mr. Marriott develop a companywide program that focused on educating all those working for UTOPIA to prevent sexual harassment and address the overall code of conduct. He told Mr. Marriott that a proactive approach would demonstrate leadership and would be the perfect way to address the problem. He also advised him that these measures would likely satisfy the offended employee.

Mr. Marriott ignored Mr. Hogan's advice. Instead, he circumvented the normal protocol where the employee would work through her immediate supervisor – in this case Mr. Hogan – and went directly to the employee and he gave her an ultimatum either to file a formal complaint or to forfeit her right to ever file one. As the grievance process proceeded, Mr. Marriott also ignored the requests of the employee.

What is more, this is not the only instance of sexual harassment in UTOPIA. In fact, there is a pervasive, hostile work environment at UTOPIA. A work environment fostered and tolerated by Todd Marriott.

Mr. Hogan wishes to emphasize his desire that UTOPIA succeed. He is willing to work with UTOPIA's leaders so that they can protect the public trust, ensure UTOPIA's



success, and vindicate Mr. Hogan's rights. Please inform us by 5:00 p.m. Tuesday, April 12, 2011, if UTOPIA is amenable to such a meeting. I look forward to your response.

Very truly yours,
CHRISTENSEN THORNTON, PLLC

A handwritten signature in black ink, appearing to read 'Steve S. Christensen', written over the printed name.

Steve S. Christensen