

# Cedar City

10 North Main Street • Cedar City, UT 84720  
435-586-2950 • FAX 435-586-4362  
www.cedarcity.org

## CITY COUNCIL WORK MEETING

MAY 7, 2014

5:30 P.M.

### Mayor

Maile L. Wilson

### Council Members

Ronald R. Adams  
John Black  
Paul Cozzens  
Don Marchant  
Fred C Rowley

### City Manager

Rick Holman

The City Council meeting will be held in the Council Chambers at the City Office, 10 North Main Street, Cedar City, Utah. The agenda will consist of the following items:

- I. Call to Order
- II. Agenda Order Approval
- III. Administration Agenda
  - Mayor and Council Business
  - Staff Comment
- IV. Public Agenda
  - Public Comments
- V. Business Agenda
  - Public
    1. South Main landscaping/beautification project – Gabriel Strand/Dan Rodgerson
    2. Consider a single event permit to hold a beer garden on June 7<sup>th</sup> for the Cedar City Elks – Candace Howes/Chief Allinson
    3. Consider a road dedication for South Mountain Drive – Rick Lunt/Joel Hansen
    4. Consider a raw land lease at the Airport for Southern Skies Aviation Inc. – Clayton Cheney/Russ Volk
    5. Consider water rate adjustment for Iron County School District – Rick Holman
  - Staff
    6. Consider a Cooperative Agreement with UDOT to pass through funds from UDOT to Boulevard Home Furnishings for storm drain and sidewalk improvements along Main Street (SR-130) as required by UDOT – Kit Wareham
    7. Review proposed amendments to the Cedar City Waterworks Ordinance, Section 37-21 and 37-22 – Kit Wareham
    8. Discuss amendments to the water acquisition ordinance – Paul Bittmenn
    9. Consider a resolution authorizing City Council meeting participation through electronic means – Paul Bittmenn
    10. Review bids on Aquatic Center LED Light project – Dan Rodgerson
    11. Consider allocating funds for Golf Course Prairie Dog barrier – Rick Holman
    12. Receive the FY 2014-15 tentative budget – Jason Norris
    13. Executive Session – Pending Litigation

Dated this 5<sup>th</sup> day of May, 2014.

Renon Savage, CMC  
City Recorder

CERTIFICATE OF DELIVERY:

The undersigned duly appointed and acting recorder for the municipality of Cedar City, Utah, hereby certifies that a copy of the foregoing Notice of Agenda was delivered to the Daily News, and each member of the governing body this 5<sup>th</sup> day of May, 2014.

  
Renon Savage, CMC  
City Recorder

Cedar City Corporation does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services.

If you are planning to attend this public meeting and, due to a disability, need assistance in accessing, understanding or participating in the meeting, please notify the City not later than the day before the meeting and we will try to provide whatever assistance may be required.

## Item #01

### Agenda #4 - South Main Street Beautification Project Presentation – Gabrielle Strand /

**Karl Stevens (SUU):** Karl – I'm here in behalf of Gabrielle Strand who works as the Program Specialist in the Community Engagement Center at SUU. (Refer to the presentation – Handout #3 at the end of the minutes.) Gabrielle's vision is to have the freshman participate with this project for the National Make a Difference Day (MADD) as part of their freshman orientation program. (Last year there were 144,000 volunteer hours.) She would like to have some native plants donated and beautify the south entrance to town. They could add to it each year. Once a year, we would need the City to take a big mower down there and mow all the weeds down. The cost to the City initially would be to spray the area and then provide the weed barrier. She basically has UDOT's approval as they have no plans at this time to do anything with that area. It would be a good time to do it with the new freeway construction. This needs to go to the City Council and we would like to get the support from this committee. Bruce – My only concern is long-term with wood chips, etc. Karl – We do recognize that and there may be something that is more suitable to use. Bruce – I definitely think that it's something we need to look into, especially if there is little impact to the City. Karl – If it goes well then there are some other areas that we could expand to. We can't use any plants that exceed 3' tall so they don't obstruct the site of drivers. Dan – My only concern is what the future impact is on the City? We're looking at a lot of projects that will require some City involvement. We need to ask Wally to determine the hours it would take yearly to maintain it. This looks like a project that is pretty low maintenance but we just have to consider everything. Karl – Gabrielle's idea is to use students to maintain it as well. There are also considerable grants available that help with these kinds of projects. Bruce – Let's make a consensus that they go to City Council from here.



# South Main Street Beautification Project

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## Make A Difference Day

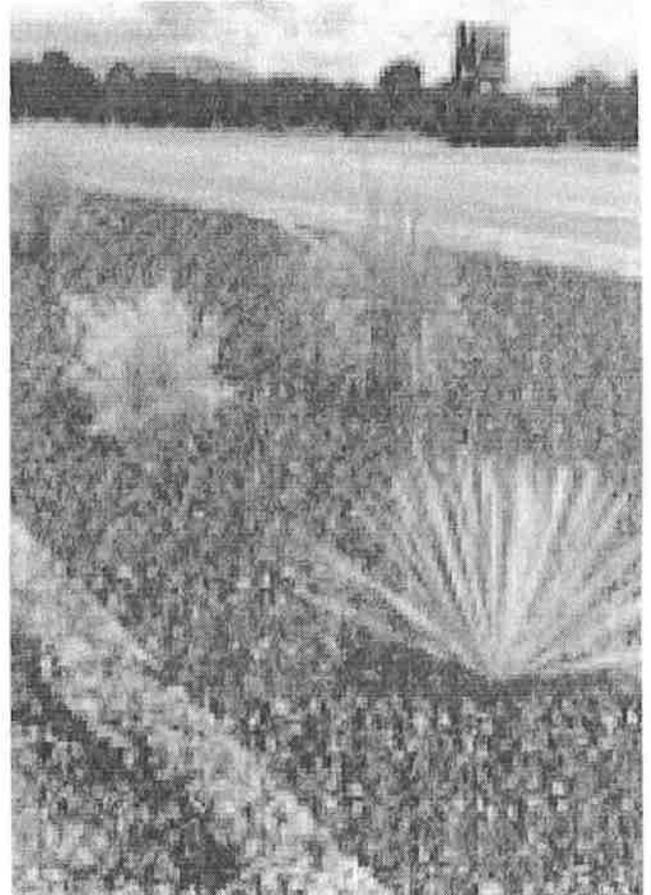
### Service Project

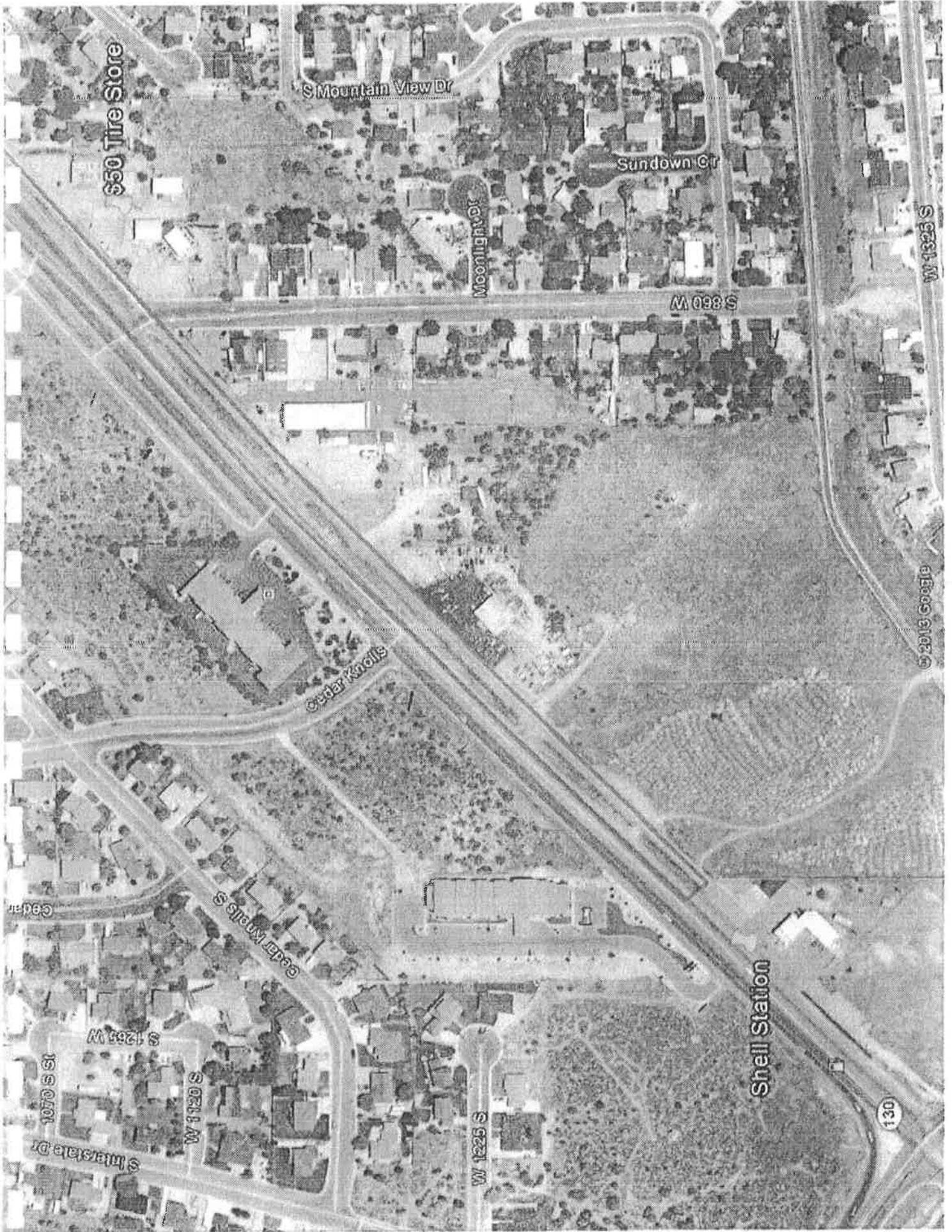
Cedar City 2014

**CURRENTLY**



**VISION of What IT Can Be**





\$50 Tire Store

S Mountain View Dr

Sundown Cr

Moonlight Cr

S 888 S

W 1325 S

Cedar Knolls

© 2016 Google

Shell Station

130

W 1225 S

W 1120 S

S 1235 W

S 1070 S

S 1125 W

April 14, 2014

**Main Street Business Owner:**

Southern Utah University is pleased to participate in the National Make a Difference Day (MADD) as part of the freshman orientation program. Our students take part in organized service projects as part of their first-year experience at SUU. Gabrielle Strand from SUU's Community Engagement Center has devoted her efforts to organizing projects that beautify our community. Recently, Gabrielle noticed that the frontage road area along South Main Street would be good place to have students do some work to provide a more inviting entrance to Cedar City.

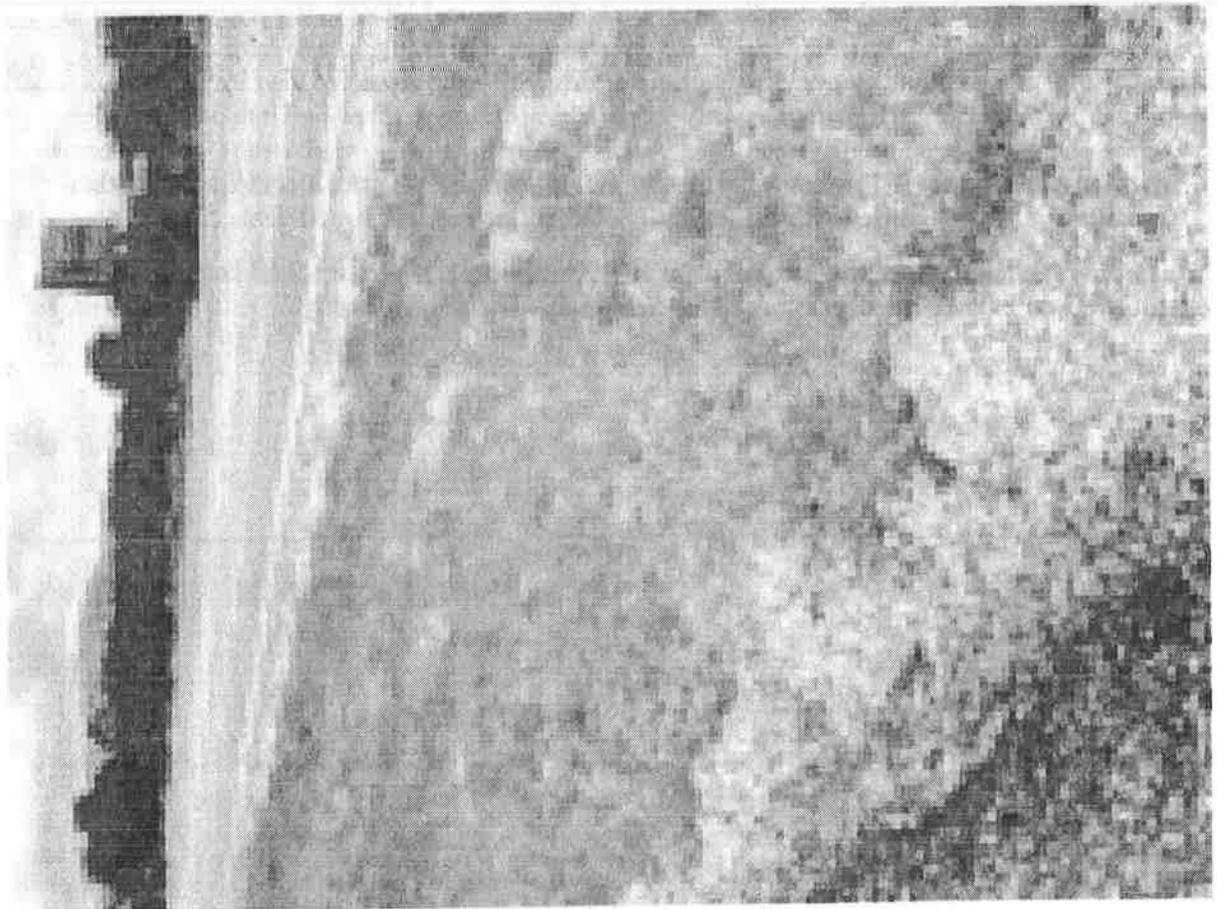
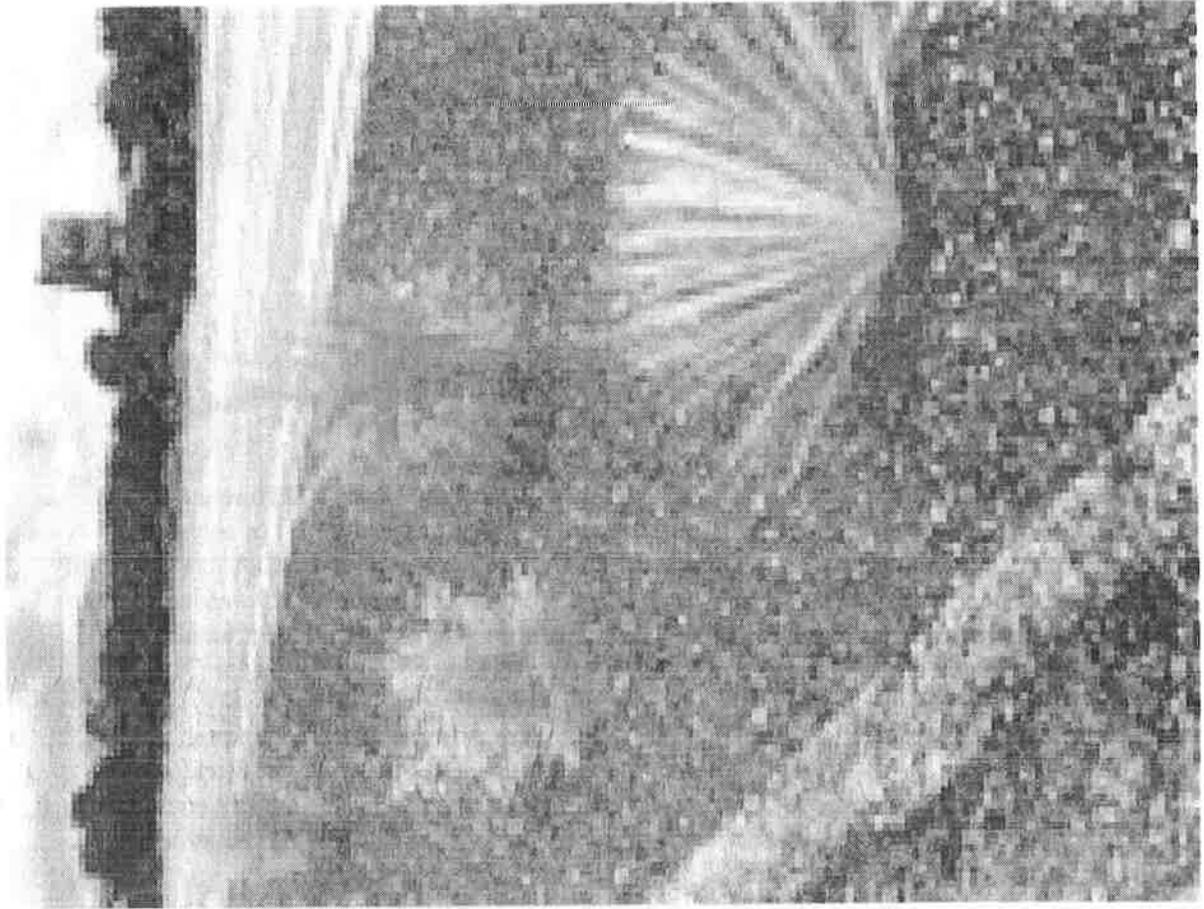
Gabrielle is working with Cedar City and UDOT to secure permission and resources to have students plant and maintain self-sustaining shrubs in the spaces between Main Street and the east-side frontage road from the Shell station at exit 57 to Desert Pines Drive (see enclosed map). This is a large project, and it may take several stages to complete. Success here may lead to similar projects in other areas.

As a business owner in along this stretch of road, we want to make you aware that this project will be taking place in October, pending approval of the city and UDOT. We encourage you to be accommodating of the students and equipment they may be using, and to help insure the viability of the new plants by avoiding parking or driving on the area. We also invite you to contribute to this effort to any degree you feel possible. We are purchasing Utah drought-resistant plants that need no irrigation once establish. Any financial contributions we can secure will increase the number of plants we can purchase. If you wish to make a contribution to this effort, please contact Gabrielle Strand at (435) 865-8332 or [gabriellestrand@suu.edu](mailto:gabriellestrand@suu.edu).

This is an excellent opportunity for Southern Utah University, its students, and community members to collaborate in an effort to make a difference in our community.

Kind regards,

Karl Stevens  
Southern Utah University



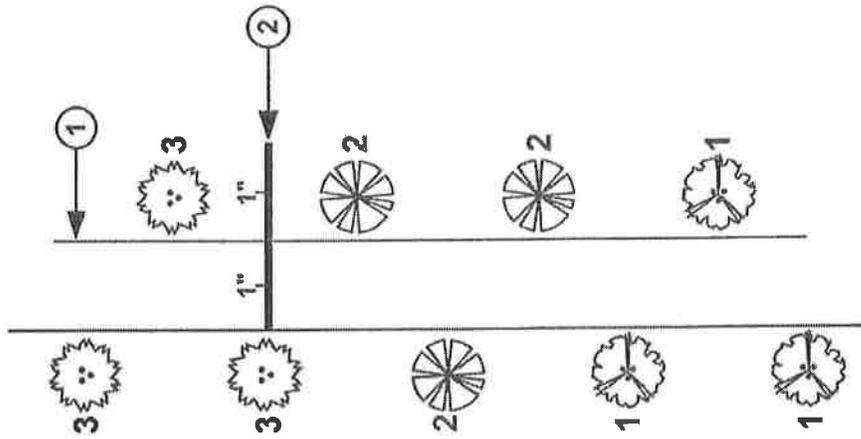
~~NO~~

### Irrigation

Quantity	Symbol	Description
<del>120 ft</del>	<del>—</del>	<del>Schedule 40 1"</del>
<del>2000 ft</del>	<del>—</del>	<del>XFD-100</del>

### Landscape

Quantity	Number	Description
<b>Annals-Perennials</b>		
167	1	Apache Plume
167	2	Sand Sagebrush
167	3	Mormon Tea
167	4	Fernbush
167	5	Cliffrose
167	6	Adam's Needle, Native Yucca
166	7	Purple Sage
166	8	Curl-Leaf Mountain Mahogany
166	9	FourWing Saltbush



~~Plant/Drip Layout Typ.~~

- ~~1 Drip tube with emitters per plant needs~~
- ~~2 Connect 1" PVC in the middle of each area~~

- Area 1:  
450' x 20'  
350 Plants  
5 square feet per plant
- Area 2:  
610' x 20'  
474 Plants  
5 square feet per plant
- Area 3:  
400' x 20'  
311 Plants  
5 square feet per plant
- Area 4:  
470' x 20'  
365 Plants  
5 square feet per plant

## NATIVE PLANT LIST

For Cedar City S. Main Street Make A Difference Day Beautification Project

- 1) Apache Plume
- 2) Sand Sagebrush
- 3) Mormon Tea
- 4) Fernbush
- 5) Cliffrose
- 6) Adam's Needle, Native Yucca
- 7) Purple Sage
- 8) Curl-Leaf Mountain Mahogany
- 9) FourWing Saltbush

### Apache Plume:

This shrub prefers full sun but will tolerate partial shade. Growing the shrub in a xeric (low-water) area is best, but it will tolerate moderate watering. As a native of Colorado, this plant is hardy to about 7,000 feet and USDA zones 4 to 8. Although the plant isn't particular about soil types, it will perform best in sandy soil or clay loam. The overall size for the plant is 4 feet to 6 feet in height and width. The Apache Plume is a featured plant in the 2002 Plant Select program for the Rocky Mountain and Plains states.



## 2) Sand Sagebrush

Sagebrush bushes grow up to 12 feet (along rivers or other relatively wet areas - more typically it grows 3-6 feet in height) and produces small yellow and white flowers in the late summer or early fall. Sagebrush (also called big sagebrush, common sagebrush, blue sagebrush, or black sagebrush) is a coarse, hardy, silvery gray-green bush that grows in the desert southwest of the United States. It has a strong pungent fragrance, especially when wet. Native American Indians used the leaves of sagebrush for medicine and sagebrush bark for weaving mats.

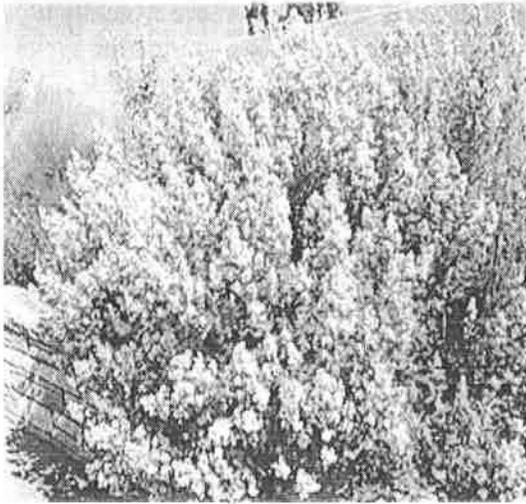


## 3) Mormon Tea

Mormon Tea is native to China where it is commonly used as a herb. These evergreen shrubs make nice groundcovers for shrub borders or rock gardens. Mormon Tea requires little maintenance and can grow in poorly fertilized soils.



#### 4) Fernbush



**Foliage** is fragrant, fernlike, scaly and sticky. Evergreen in warm climates, deciduous in cold climates, Fernbush has attractive fall color. **Flowers** are white and roselike, in showy clusters that attract butterflies and bees, from June to August. **Seeds** are colorful, and provide winter interest.

#### 5) Cliffrose

*Purshia* (bitterbrush or cliff-rose) is a small genus of 5-8 species of flowering plants in the family Rosaceae, native to western North America, where they grow in dry climates from southeast British Columbia in Canada south throughout the western United States to northern Mexico.<sup>[3]</sup>

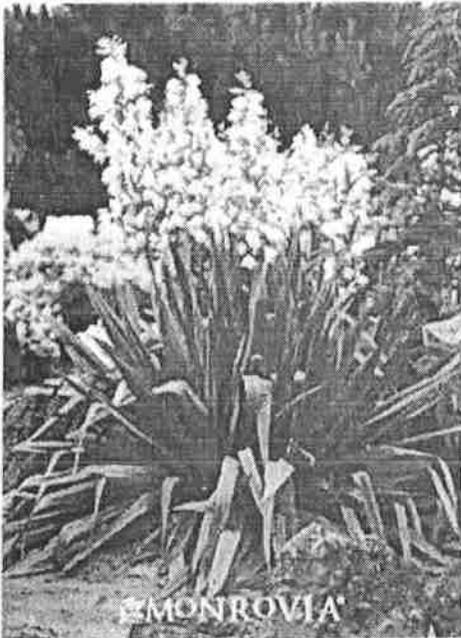
They are deciduous or evergreen shrubs, typically reaching 0.3–5 m tall. The leaves are small, 1–3 cm long. The flowers are 1–2 cm diameter, with five white to pale yellow or pink petals and yellow stamens. The fruit is a cluster of dry, slender, leathery achenes 2–6 cm long. The roots have root nodules that host the nitrogen-fixing bacterium *Frankia*.<sup>[4]</sup>



6) Adam's Needle, Native Yucca

*Yucca filamentosa* is an evergreen, drought hardy, bold focal point foliage plant with a radiating "southwestern look".

The Adam's Needle Yucca is a handsome plant with sharp, evergreen leaves. It is one of the easiest perennials to grow and will thrive almost anywhere and is carefree when established. It also never misses a year of showing off its ivory bells on 4-6' spikes. Plant a cluster of three Adam's Needle Yucca for that exotic touch at your home. Blooms: late summer. Deer and drought resistant, attracts butterflies and hummingbirds. Salt tolerant. Evergreen.



7) Purple Sage



Purple sage is an attractive, low maintenance, drought tolerant shrub that can be used as an accent plant or small hedge in landscaped areas. It will maintain its rounded shape without pruning and is resistant to browsing by deer and rabbits. Pollinators: Purple sage provides nectar and pollen for bees, butterflies and moths. Range re-vegetation: : This plant can be used for re-vegetation and diversification of rangeland, particularly in harsh, rocky sites.

### **8) Curl Leaf Mountain Mahogany**

Description: Curl-leaf mountain mahogany is a marvelous large shrub to small tree that would look good in any ornamental landscape, but is especially adapted for low-water landscapes. It is the only broadleaf evergreen tree in the Intermountain West, and as such it offers an interesting winter contrast to the standard landscape conifer. It achieves a rather gnarly and quite intriguing shape with age. Seeds have long, cork-screw, feather-like plumes that cover the tree, creating an almost fuzzy appearance from a distance. The leaves are distinctively aromatic, evergreen and, curled.



### **FourWing Saltbush**

Fourwing saltbush is a valuable browse that tolerates heavy use. It is used extensively by many wildlife species and domestic livestock, and provides fair to good forage for domestic sheep, goats, and cattle. Leaves usually remain succulent during the hot, dry summer months and can provide some forage even in years when annuals fail.

Fourwing saltbush generally provides good deer browse during all seasons and is used by elk in winter. Pronghorns may feed on this shrub to some extent during all seasons of the year. Fourwing saltbush

is a preferred browse of many rabbits and small mammals. Seeds are readily eaten by upland game birds, small nongame birds, and rodents.

Fourwing saltbush is well adapted to a wide range of temperature and soil conditions. It is highly tolerant of drought, salinity, and alkalinity. Fourwing saltbush occurs on sand dunes, in gravelly washes, on mesas, ridges, alluvial plains, and slopes, at elevations between 3,000 and 8,000 feet.

Soils: Common on many different soil types, most common on deep, well-drained, sandy (often alkaline) soils in the desert and foothill ranges of the Great Basin. However, it also grows well on heavy clay and on selenium-enriched soil.

**LANDSCAPE  
MAINTENANCE AGREEMENT**

PROJECT NAME: SUU SOUTH MAIN "MAKE A DIFFERENCE" LANDSCAPING PROJECT

THIS AGREEMENT made and entered into this day of \_\_\_\_\_, YEAR 2014 by and between the UTAH DEPARTMENT OF TRANSPORTATION SOUTHERN UTAH UNIVERSITY, an agency and institution of higher education of the state of Utah, hereafter referred to as UDOT and the CITY OF \_\_\_\_\_ SUU OR ITS ASSIGNS, a Municipal Corporation of the State of Utah, hereinafter referred to as the CITY SUU.

**RECITALS**

WHEREAS, UDOT has right-of-way on ~~{Route}~~ Cedar City Main Street, otherwise referred to as Utah Highway 130 or U130, appropriate for the use of landscaping improvements to which the CITY of student group from SUU wishes to maintain landscape features along ~~{Route}~~ U130 at ~~{Location; Development, Etc.}~~ the location and in the particulars shown in "Attachment A" ("LOCATION") in Cedar ~~{City}~~, ~~from~~ ~~{County}~~, Utah; and

WHEREAS, the parties hereto desire to enter into a maintenance agreement covering the landscaped portion of the said facilities as shown on the attached plans which by these references are made a part hereof; and

WHEREAS, this Agreement is made to set forth the terms and conditions where under said work shall be performed.

**AGREEMENT**

NOW THEREFORE, it is agreed by and between the parties hereto as follows:

1. ~~UDOT~~ will allow ~~the CITY SUU~~ access on State right-of-way at ~~LOCATION~~ ~~Location; Development, Etc.}~~ of ~~{Route}~~ and approximately ~~{Mile Post}~~ in ~~{City}~~; including the roundabouts, gore and adjacent areas, for the sole purpose of ~~maintaining planting trees to enhance landscape features (i.e. pruning, mowing, replacing plant material, repair of irrigation systems, decorative stone, erosion control, weed control, litter control).~~
2. ~~The CITY SUU or its assigns will have access rights to prepare the site and plant trees intended to enhance the related landscape at the roadside of the LOCATION provide routine care and maintenance of said facilities within UDOT right-of-way as long as work is outside the safety zone (i.e. {Project Site Clear Zone as Measured from Painted White Line on Mainline and Painted White Line on Ramps}). All work within the right of way requires approved DOT orange clothing or outer wear. Youth volunteer groups between the ages of 16 and 18 are allowed to work within the right of way when adult supervision is provided. Youth under the age of 16 are not permitted to work within the right of way.~~
3. Any work within the safety zone will be allowed provided traffic control is implemented according to the MUTCD guidelines. If work will require that lane(s) of traffic will be impacted, ~~the CITY SUU~~ must obtain a permit from UDOT for approval of the traffic control plan in accordance with the

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MUTCD and applicable rules.

4. ~~The CFFY~~ SUU will establish and maintain the trees, shrubs, and irrigation system during the term of this Agreement. If the trees or shrubs fail to survive, SUU ~~the CFFY~~ will supply and (1) replanting and establish plant materials. ~~The CFFY accepts maintenance responsibility for all systems of the project including the clearing of debris, weed control, trash and maintaining drainage.~~

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5. **UDOT** will remain the owner of the real property on which said landscaping is facilities are installed. Any significant changes to the landscaped areas will be reviewed and approved by **UDOT** before work may begin.

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If **UDOT** decides to use the right-of-way for any of its projects, ~~UDOT~~ the CFFY shall remove and/or relocate the landscaping improvements at ~~UDOT's~~ the CFFY's expense, and **UDOT** will not replace or reimburse SUU ~~the CFFY~~ for the improvements.

6. ~~Initial~~ The term of this Agreement will be ten (10) years, then at the end of the ten (10) year period it will be automatically renewed by five (5) year increments, unless written notice of termination is given to UDOT by SUU the CFFY at least thirty (30) days prior to expiration of the current term.

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7. After thirty (30) days of receipt of written notice to terminate the Agreement of one party to the other party, this Agreement will become null and void. ~~If at such time and if requested by UDOT, the CFFY will restore the areas of landscape to UDOT standards or pay UDOT to perform this work.~~

8. ~~SUU~~ SUU ~~the CFFY~~ and **UDOT** are both governmental entities as defined in the Utah Governmental Immunity Act (the "Act"). Nothing in this Landscape Maintenance Agreement shall be deemed as a waiver by either or both parties of any defenses or protections provided by the Act. Nor shall this Agreement be construed, with respect to third parties, as a waiver of any governmental immunity to which a party to this Agreement this Agreement is otherwise entitled. SUU ~~The CFFY~~ agrees to indemnify, save harmless, and release **UDOT** from and against any and all loss, damages, injury, liability, suits, claims and proceedings arising out of the performance of this Agreement, or which damages, injuries, liability, suits, claims and proceedings, including but not limited to, vehicle damage and/or personal injury as a result of crashes caused in whole or in part by SUU's ~~CFFY's~~ employees, officers, agents, and contractors, or by improper traffic control that are caused in whole or in part by the SUU ~~CFFY's~~ acts, omissions, failure to act, or negligence of the SUU ~~CFFY's~~ officers, agents, contractors, or employees, except where the claim arises out of the sole negligence of **UDOT**. This provision shall survive the termination of this Agreement. SUU ~~CFFY~~ shall indemnify **UDOT** for any losses, damages, injury, liability, claims, suits and proceedings arising out of the landscaping features installed by the SUU ~~CFFY~~ within **UDOT's** right-of-way.

9. This Agreement may be executed in counterparts by the **UDOT** and SUU ~~CFFY~~.

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10. This Agreement shall be governed by the laws of the State of Utah both as to interpretation and performance.

11. This Agreement in no way creates any type of agency relationship, joint venture, or partnership between the SUU ~~CFFY~~ and **UDOT**.

12. This Agreement, together with all exhibits and attachments, constitutes the entire agreement between the parties and supersedes any prior understandings, agreements, or representations, verbal or written. No subsequent modification or amendments will be valid unless in writing and signed by both parties.

13. Each party represents that it has the authority to enter into this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by its duly authorized officers as of the day and year first above written.

UTAH DEPARTMENT OF  
TRANSPORTATION \_\_\_\_\_

ATTEST:  
SOUTHERN UTAH UNIVERSITY \_\_\_\_\_

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BY: \_\_\_\_\_  
Region Director

\_\_\_\_\_  
Title: \_\_\_\_\_

BY: \_\_\_\_\_  
Region Landscape Architect  
Title: \_\_\_\_\_

\*\*\*\*\*

THE CITY OF [CITY] \_\_\_\_\_

ATTEST:

BY: \_\_\_\_\_  
Mayor

\_\_\_\_\_  
Title: \_\_\_\_\_

\*\*\*\*\*  
\*\*\*\*\*

**LANDSCAPE**  
**MAINTENANCE AGREEMENT**

PROJECT NAME

**THIS AGREEMENT** made and entered into this day of \_\_\_\_\_, [YEAR] by and between the **UTAH DEPARTMENT OF TRANSPORTATION**, hereafter referred to as **UDOT** and the **CITY OF \_\_\_\_\_** **OR ITS ASSIGNS**, a Municipal Corporation of the State of Utah, hereinafter referred to as the **CITY**.

RECITALS

WHEREAS, **UDOT** has right-of-way on [Route] appropriate for the use of landscaping improvements to which the **CITY** wishes to maintain landscape features along [Route] at [Location, Development, Etc.] in [City], [County], Utah; and

WHEREAS, the parties hereto desire to enter into a maintenance agreement covering the landscaped portion of the said facilities as shown on the attached plans which by these references are made a part hereof; and

WHEREAS, this Agreement is made to set forth the terms and conditions where under said work shall be performed.

AGREEMENT

NOW THEREFORE, it is agreed by and between the parties hereto as follows:

1. **UDOT** will allow the **CITY** access on State right-of-way at [Location, Development, Etc.] of [Route] and approximately [Mile Post] in [City]; including the roundabouts, gore and adjacent areas, for the sole purpose of maintaining landscape features (i.e. pruning, mowing, replacing plant material, repair of irrigation systems, decorative stone, erosion control, weed control, litter control).

2. The **CITY** or its assigns will have access rights to provide routine care and maintenance of said facilities within **UDOT** right-of-way as long as work is outside the safety zone (i.e. [Project Site Clear Zone as Measured from Painted White Line on Mainline and Painted White Line on Ramps]). All work within the right of way requires approved DOT orange clothing or outer wear. Youth volunteer groups between the ages of 16 and 18 are allowed to work within the right of way when adult supervision is provided. Youth under the age of 16 is not permitted to work within the right of way.

3. Any work within the safety zone will be allowed provided traffic control is implemented according to the MUTCD guidelines. If work will require that lane(s) of traffic will be impacted, the **CITY** must obtain a permit from **UDOT** for approval of the traffic control plan in accordance with the MUTCD and applicable rules.

4. The **CITY** will establish and maintain the trees, shrubs, and irrigation system during the term of this Agreement. If the trees or shrubs fail to survive, the **CITY** will replant and establish plant materials. The **CITY** accepts maintenance responsibility for all systems of the project including the clearing of debris, weed control, trash and maintaining drainage.

5. UDOT will remain the owner of the real property on which said landscape facilities are installed. Any significant changes to the landscaped areas will be reviewed and approved by UDOT before work may begin.

If UDOT decides to use the right-of-way for any of its projects, the CITY shall remove and/or relocate the landscaping improvements at the CITY's expense and UDOT will not replace or reimburse the CITY for the improvements.

6. Initial term of this Agreement will be ten (10) years; then at the end of the ten (10) year period it will be automatically renewed by five (5) year increments unless written notice of termination is given to UDOT by the CITY at least thirty (30) days prior to expiration of the current term.

7. After thirty (30) days of receipt of written notice to terminate the Agreement of one party to the other party, this Agreement will become null and void. If at such time and if required by UDOT, the CITY will restore the areas of landscape to UDOT standards or pay UDOT to perform this work.

8. The CITY and UDOT are both governmental entities as defined in the Utah Governmental Immunity Act (the "Act"). Nothing in this Landscape Maintenance Agreement shall be deemed as a waiver by either or both parties of any defenses or protections provided by the Act. Nor shall this Agreement be construed, with respect to third parties, as a waiver of any governmental immunity to which a party to this Agreement is otherwise entitled. The CITY agrees to indemnify, save harmless, and release UDOT from and against any and all loss, damages, injury, liability, suits, claims and proceedings arising out of the performance of this Agreement, or which damages, injuries, liability, suits, claims and proceedings, including but not limited to, vehicle damage and/or personal injury as a result of crashes caused in whole or in part by CITY's employees, officers, agents, and contractors, or by improper traffic control that are caused in whole or in part by the CITY's acts, omissions, failure to act, or negligence of the CITY's officers, agents, contractors, or employees, except where the claim arises out of the sole negligence of UDOT. This provision shall survive the termination of this Agreement. CITY shall indemnify UDOT for any losses, damages, injury, liability, claims, suits and proceedings arising out of the landscaping features installed by the CITY within UDOT's right-of-way.

9. This Agreement may be executed in counterparts by the UDOT and CITY.

10. This Agreement shall be governed by the laws of the State of Utah both as to interpretation and performance.

11. This Agreement in no way creates any type of agency relationship, joint venture, or partnership between the CITY and UDOT.

12. This Agreement, together with all exhibits and attachments, constitutes the entire agreement between the parties and supersedes any prior understandings, agreements, or representations, verbal or written. No subsequent modification or amendments will be valid unless in writing and signed by both parties.

13. Each party represents that it has the authority to enter into this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by its duly authorized officers as of the day and year first above written.

**UTAH DEPARTMENT OF  
TRANSPORTATION**

**ATTEST:**

BY: \_\_\_\_\_  
Region Director

\_\_\_\_\_  
Title: \_\_\_\_\_

BY: \_\_\_\_\_  
Region Landscape Architect

\_\_\_\_\_  
Title: \_\_\_\_\_

\*\*\*\*\*

**THE CITY OF [CITY]**

**ATTEST:**

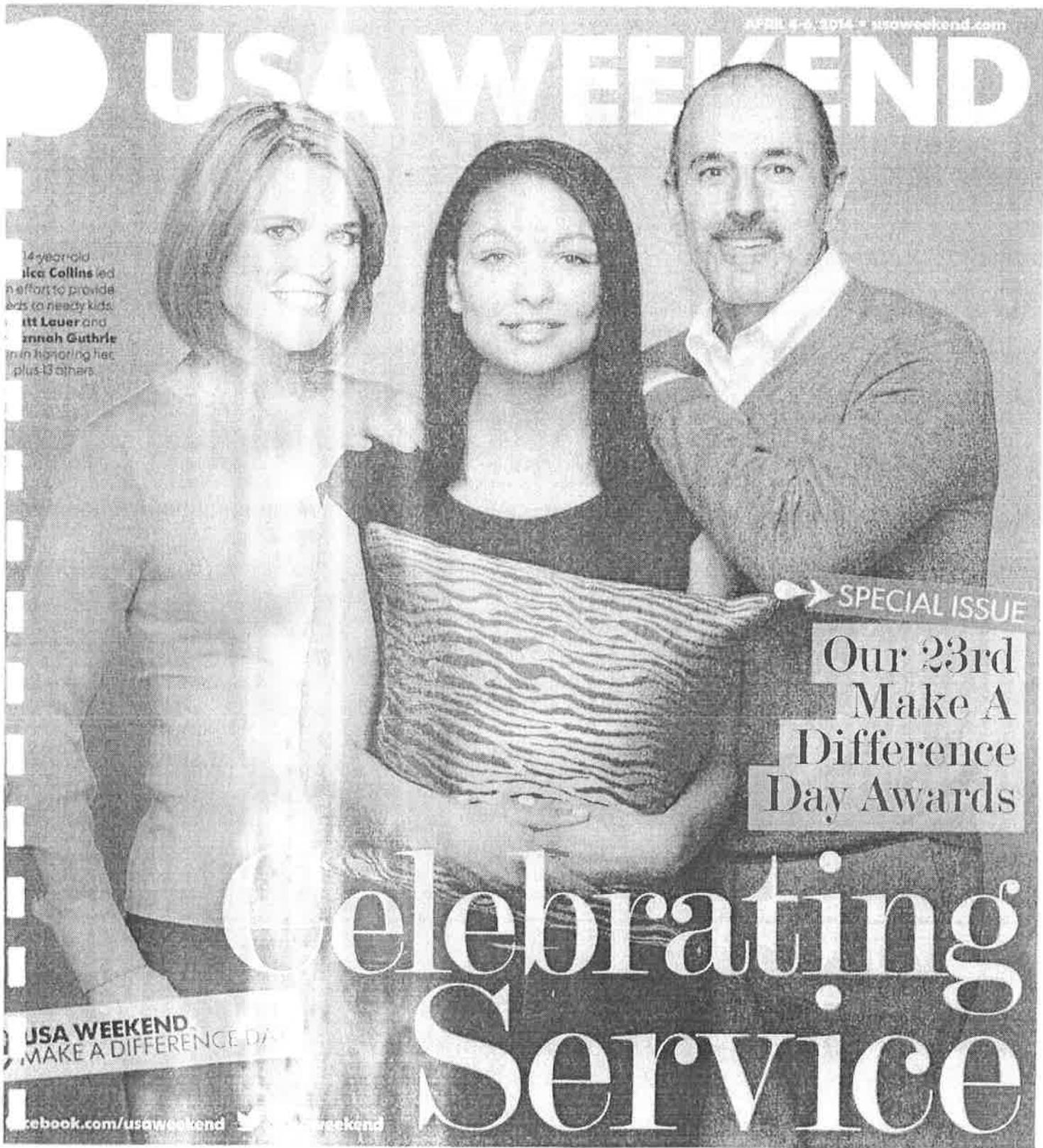
BY: \_\_\_\_\_  
Mayor

\_\_\_\_\_  
Title: \_\_\_\_\_

\*\*\*\*\*  
\*\*\*\*\*

# USA WEEKEND

14-year-old  
**Lisa Collins** led  
an effort to provide  
books to needy kids.  
**Matt Leuer** and  
**Annah Guthrie**  
win honoring her,  
plus 13 others.



SPECIAL ISSUE

Our 23rd  
Make A  
Difference  
Day Awards

# Celebrating Service

USA WEEKEND  
MAKE A DIFFERENCE DAY

facebook.com/usaweekend @usaweekend

► **Bailey Snow is a 16-year-old from Granite Bay, Calif.**, with a full slate of high school classes, a course at the local junior college, a part-time job at Starbucks, a place on his school's trap-shooting team and a regular round of SAT prep classes on his schedule.

He had yet to see *The Lego Movie*. Too busy. But he already knows the power of the Lego bricks and has a toy that has been viewed more than 337,000 times on YouTube.

Bailey's charity, Brick-Dreams, solicits Lego donations from his community, sorts and packages the bricks in empty tennis ball containers and distributes them to organizations working with needy children. On Make A Difference Day, he and eight volunteers packaged more than 60 cans for distribution to local police departments, domestic violence organizations and

### Key players

► Sometimes it's not just about the work that gets done, it's also about how you play.

**Allison Vaux-Bjerke works at Playworks, Washington D.C.**, an organization that provides kids with opportunities for safe, meaningful play. That can be hard to come by in urban areas, where schools can lack safe playgrounds and may need to use neighboring civic recreation centers for recess. That's how Vaux-Bjerke became familiar with the D.C. Center for Therapeutic Recreation, which provides services for kids as well as seniors and people with special needs. Playworks put out the call out for

ers to ne ce face if ra-

boys and girls clubs. "Say a kid is a victim of domestic violence," he says. "They have to leave the house quickly and they don't have a lot of things. They can go to shelters and get clothes and toiletries, but they can't get something like Legos to help them escape."

Trudy Harris, development manager at the Boys and Girls Club of Placer County, says the club gives out the Lego containers as awards for good service or even as Christmas gifts. "They love anything to do with Legos, and the cool thing about his Legos is he makes sure each one of the canisters has a little character in it for the kids to play with," she says.

Bailey's Make A Difference Day event enticed help from the family behind EvanTubeHD, a YouTube channel with family-friendly videos and toy reviews, which posted a video of the day's activities.

Toys build hope



DAVID BAILEY FOR USA WEEKEND



ALLISON VAUX-BJERKE, CENTER, JOINS THE THERAPIST, FRANCESCA JONES AND CLIENT, WALKER GARRISON, AT THE THERAPEUTIC RECREATION CENTER.

worked on landscaping, decorated recycling bins ... and worked side-by-side with many of the center's developmentally disabled clients.

"They talked about it for days after," says Garrison.



UNIVERSITY OF ARKANSAS STUDENTS WEED THE GROUNDS OF A PUBLIC LIBRARY IN FAYETTEVILLE, ARK., AS PART OF THE UNIVERSITY OF ARKANSAS CENTER FOR COMMUNITY ENGAGEMENT'S MAKE A DIFFERENCE DAY ACTIVITIES ON OCT. 26, 2013.

USA WEEKEND, with the Corporation for National & Community Service and Newman's Own, salutes volunteer efforts led by cities. Each receives a \$10,000 donation from Newman's Own. They are:

### City Awards

**Cleveland, Tenn.** About 800 volunteers worked on dozens of activities ranging from a YMCA job fair that helped 64 people find employment to an effort in which nearly 75 Lee University students assembled backpacks for 10,000 children filled with snacks, toothpaste, shampoo and other basics.

**Fayetteville, Ark.** 1,326 volunteers at the University of Arkansas and Fayetteville community worked on projects including cleaning and stocking the campus food pantry and creating puppets for a local literacy program.

**Wairton, W. Va.** In the campaign — called Soup, Socks and Smiles: Warm Your Heart, Warm Your Sole — about 500 volunteers helped collect 5,000 pounds of food for pantries and more than 300 pairs of kids' socks, backpacks and other clothes.

### All-Star Award

This award recognizes a past national honoree who continues to excel on Make A Difference Day. Online voters chose the winner.

**Assistance League, Burbank, Calif., and nationwide, 2013 honoree**

After rounding up 113,000 books for at-risk children on their first Make A Difference Day, the women of the Assistance League surprised themselves by nearly copying that success last October. 2,666 members of the service organization led 93 communities in donating 103,036 books to schools, foster programs and shelters.

When 53 books were delivered to La Verkin, Utah, third-graders, "the kids' reaction was priceless," says chapter president Milene Lander. "One boy grabbed *Diary of a Wimpy Kid* and said, 'I've been waiting my whole life to read this!' He just lit up."

— STRIKES BY HOLLE SEED

FOR THE MEMORIAL DAY

# About Make A Difference Day

The nation's largest day  
of volunteering is  
sponsored by  
USA WEEKEND

in partnership with  
Points of Light and  
Newman's Own.

On Oct. 26, 2013 — the  
23rd Make A Difference  
Day — people across  
the USA reached out to  
others in need of food,  
clothing, shelter and  
other aid.

Follow @mdday on  
Twitter. Like us at  
[facebook.com/makea-  
differenceday](https://www.facebook.com/makea-differenceday).

Visit us at [makea-  
differenceday.com](http://makea-<br/>differenceday.com).

The next Make A  
Difference Day is  
**Saturday, Oct. 25,  
2014.** Will you join the  
millions of people  
helping others?



POINTS  
OF LIGHT



**SUU**  
SOUTHERN  
UTAH  
UNIVERSITY

**C. Gabrielle Strand**  
Program Specialist  
Community Engagement Center

417 West 200 South  
Cedar City, UT 84720  
Office (435) 865-8332  
Fax (435) 865-8199  
[gabriellestrand@suu.edu](mailto:gabriellestrand@suu.edu)

LEARNING LIVES FOREVER

**SUU**  
SOUTHERN  
UTAH  
UNIVERSITY

**Karl B. Stevens**  
Director of Distance Education

Hunter Conference Center  
351 West University Boulevard  
Cedar City, UT 84720  
Office (435) 586-5481  
Fax (435) 865-8087  
[stevens@suu.edu](mailto:stevens@suu.edu)

LEARNING LIVES FOREVER



**CEDAR CITY CORPORATION**  
**SINGLE EVENT PERMIT APPLICATION**

\*\*\*\*\*

APPLICANT: Please spell out the information requested below. A \$50.00 fee is due and payable at the time of submitting the application. (Said fee is refundable if a permit is not granted.)

\*\*\*\*\*

**SECTION I**

NAME: Cedar Elks Lodge

ADDRESS: 111 E 200 N

PHONE NUMBER: (435)586-8332 NAME OF ENTITY: \_\_\_\_\_

PURPOSE OF ENTITY: \_\_\_\_\_

TYPE OF EVENT: Horseshoe Tournament

CASH OR SURETY BOND FOR \$1,000 \_\_\_\_\_

TIME AND DATE OF EVENT: June 7<sup>th</sup>, 2014

NATURE AND PURPOSE OF EVENT: Fundraiser for charity

\_\_\_\_\_

\*\*\*\*\*

**SECTION II**

DESCRIBE THE FLOOR PLAN DESIGNATING:

(A) THE AREA IN WHICH THE APPLICANT PROPOSES THAT BEER BE STORED:

North East corner of parking lot

(B) THE SITE FROM WHICH THE APPLICANT PROPOSES THAT BEER BE SOLD

OR SERVED: North East corner of parking lot ;

(C) THE AREA IN WHICH THE APPLICANT PROPOSES THAT THE BEER BE

ALLOWED TO BE CONSUMED: North East corner + horseshoe pit

\*\*\*\*\*

**SECTION III**

WE HEREBY CONSENT TO CITY OFFICIALS HAVING THE UNRESTRICTED RIGHT TO ENTER THE PREMISES TO ENTER THE EVENT FOR PURPOSES OF ENFORCEMENT.

DATE: 4/29/14

SIGNATURE:

Candace Homes

APPLICANT

\*\*\*\*\*

I HEREBY VERIFY THAT I AM AUTHORIZED TO ACT ON BEHALF OF SAID ASSOCIATION OR ORGANIZATION.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

APPLICANT:

Its: \_\_\_\_\_

\*\*\*\*\*

**THIS SECTION IS TO BE FILLED OUT BY CITY**

\*\*\*\*\*

APPLICATION HAS BEEN REVIEWED BY THE CEDAR CITY POLICE DEPARTMENT, AND ITS RECOMMENDATION IS AS FOLLOWS: \_\_\_\_\_

DATE: \_\_\_\_\_

SIGNATURE:

\_\_\_\_\_

COUNCIL APPROVAL \_\_\_\_\_

\*\*\*\*\*

CEDAR CITY COUNCIL  
AGENDA ITEMS V - 3  
DECISION PAPER

**TO:** Mayor and City Council  
**FROM:** Paul Bittmenn  
**DATE:** May 5, 2014  
**SUBJECT:** Consider the dedication of South Mountain Drive.

**DISCUSSION:**

South Mountain Drive is a City master planned road that will run west to east from Westview Drive to the I-15 frontage road. Much of this road is already dedicated. From the I-15 frontage road South Mountain Drive is already dedicated through the Eagle Ridge at South Mountain subdivision, phase #1. Traveling west to east from Westview Drive a substantial distance of right of way for South Mountain Drive has already been dedicated to the City.

This road dedication will dedicate to the City the final +/- 601 feet in length and 66 feet in width of South Mountain Drive. The title report covering the property indicates the roll back taxes have been paid and third party trust interests via trust deeds have been released. There are a number of utility easements that either travel the same path of the road or intersect the proposed road.

The planning commission gave this a positive recommendation, a copy of the minutes are attached. Please consider the dedication of a portion of South Mountain Drive.

better option for this one particular spot. This building is there already. If it were vacant land, this would never go thru. They are just trying to find a way to make something in this existing building work.

Scott just feels that opening the door to R-3 would be a bad way to go.

Ralph McAfee who also just lives around the corner from this parcel said they were excited when they heard they wanted to do something with this building. It has been a convenience store he also talked about the concern with congestion. They currently have that community feeling and he wants to keep it that way.

Jill feels this is a good compromise as they could have had 16 units and they have come down to 11 as that is all the parking they can get on the parcel.

**Rich made a motion to give a positive recommendation of the General Land Use change to the City Council, seconded by Jill and the vote was unanimous.**

**3- Zone Change**

**429 W 400 S**

**Tom Pugh/ Brent Drew**

**(Recommendation)**

**R-2 to R-3-Multi**

This is a zone change at the same location that was just discussed.

Mike wondered if this would set precedence to making more in that area the R-3 zone.

Each item comes separately and can be voted on separately.

Paul said each change whether large or small is a legislative action. That is something you bind yourself to and stick with. Courts are bound by this. Cities are not held to that same law or rule. They should try to be consistent and fair, but are not bound like other entities. He does not believe that this one zone change sets any precedence to make other lots in this area the same zone.

Kit pointed out that each change would need to go thru the same General Plan amendment also.

**Rich moved to give a positive recommendation for this zone change, seconded by Mike and the vote was unanimous.**

**4- Road Dedication**

**South Mt. Drive**

**H&B Capital/ Ron Larsen**

**(Recommendation)**

Ron Larsen said this road dedication would extend the road between Eagle Ridge at South Mountain to the existing dedicated road to the west that goes further west into Westview Drive. This would be a 66' road dedication to the City. He pointed out on the map the portion from Westview Drive to the east that was already dedicated. This would connect those two and make the road complete thru there. Kit talked about the portion that was already dedicated from one point clear to Westview Drive.

Ron also said that this road follows an existing 16" waterline that goes from Quichapa Line #1 and will follow that transmission line.

Mike wanted them to explain just what a road dedication was.

Ron said the property will be deeded and then owned by the City for a road. There is an easement there now for that waterline, this would actually deed this strip to the City and the

City can have it for a road.

Paul explained that an easement for a waterline is restrictive and only for that purpose. They cannot do other things on it. They can't put things there. When the road is dedicated, that typically comes with a public utility easement that parallels that road and goes with the road. It gives them more latitude to put things in there. The owner gives it to the City at no cost.

Kit pointed out that there is a deeded easement along this path for the access to that waterline. They don't improve easements as roads. With the road dedicated, they can have all the options that Paul talked about.

Kent pointed out that this is a master planned roadway. Kit said that you can only do it this way for a master planned road. They can dedicate it all, then just do the double chip seal along it. If it were not a master planned road, they would have to improve the entire width, with the curb, gutter and sidewalk along with the road.

Fred said we now have another road that will go to nowhere. It was pointed out that this road dedication would tie to another road dedication in place and it would end up at Westview Drive. Mike pointed out that there was a pretty good hill to the west of his subdivision that this road would need to go over. Would they cut down that hill? Ron said they would do a little cut and fill, but they can't do much with that waterline there already. The proposed road would need a little fill to get the slopes right. He further explained in one spot how they would need to cut into that hillside to create the road.

Fred wondered about the time line of getting this road completed. Kit said it would need to be done along with the subdivision improvements. They will need that as their second access as soon as they do the subdivision in that area. That entire roadway clear to Westview Drive would be paved along with the subdivision completion. That is what is driving this road, as the subdivision there will need a second access for the number of lots in the area now. Ron L. said the developer planned to begin sooner, but it will probably be started in June.

Fred asked about a petition he saw from the neighborhood to take this roadway a different way. Kit pulled up the current Street Master Plan to look over. He pointed out this road on that master plan. There is a minor collector that crosses that major collector and said this road conforms to the master plan. Kit pointed out the alternative, and that will happen as the owners of that land develop.

Mike wondered if they explored any other alternative roads. Ron said no, they knew about this master planned road and wanted to follow that waterline. He said when you go where the sewer goes, that was originally planned to bore through that one hill, but it was so much rock that they had to blast it out to get the sewer line in. To make that a 66' wide road with easement along both sides would take a lot of rock work and not be feasible in that area. No developer would want the cost of putting in a road thru there. The master planned road goes thru the developers land. It benefits them to put the road in to the west.

Vance was not sure of the topography in the area. He pointed to a brown and blue road on that master plan and wondered about that route. He could not see this neighborhood accessing clear out to Westview Drive, but he could see all the people from the west accessing thru there to get to town. Who owned what property was pointed out. Vance pointed out that this road is

consistent with the master plan.

Kit pulled up another master street plan done back in 1994. That same road out to Westview drive was pointed out so it has been in the plan for many years. At that time, it went clear thru that subdivision. Later the master plan after the subdivision was in, cut that road off before it went all the way thru the existing subdivision. That master plan road has been on the drawing board for a long time.

**Rich made a motion to give positive recommendation to City Council for this road dedication as it was presented. Seconded by Jill and the vote was unanimous.**

The meeting adjourned at 6:00 p.m.

---

Michal Adams, Administrative Assistant

**CEDAR CITY COUNCIL  
AGENDA ITEM 4**

**DECISION PAPER**

**TO:** Mayor and City Council

**FROM:** Russ Volk

**DATE:** May 7th, 2014

**SUBJECT:** Consider Raw Land Lease Request

**RECOMMENDATION:** Airport Board has approved this lease request and asked to forward on to City Council for consideration

**DISCUSSION:** Southern Skies Aviation Inc. (Clayton Cheney) has requested that it be allowed to lease a parcel of land adjacent to lot #40 on the 1400 north taxilane inside the airport. The purpose of this parcel is to provide access to the large doors on the side of the new hangar being constructed. The Airport Board considered this matter at its meeting on April 22nd, 2014 and voted to approve this request and forward on to City Council for consideration.

Request the City Council consider this lease request and allow the Mayor to sign the lease documents.



## LEASE

**THIS AGREEMENT**, made and entered on this 15 May 2014, by and between CEDAR CITY CORPORATION, 10 North Main Street, Cedar City, UT 84720, a municipal corporation organized and existing under the laws of the State of Utah, hereinafter referred to as the LESSOR, and Southern Skies Aviation, Inc., a Utah Corporation, hereinafter referred to as the LESSEE.

### WITNESSETH:

The LESSOR, in consideration of the rental herein agreed to be paid by the LESSEE, and other terms herein to be performed by LESSEE, hereby leases unto LESSEE, that parcel of property located at the CEDAR CITY REGIONAL AIRPORT, Cedar City, Utah, as shown in Exhibit A and more particularly described as follows:

Add Legal Description

### ARTICLE I

#### TERMS AND RENTALS

1. Term. The term of this Lease shall be for a period of TWENTY (20) years commencing on the 15 May 2014, and expiring on the 15 May 2034, unless sooner terminated or extended as provided by this Lease. During said 20-year period, the parties shall evaluate the consideration set forth in paragraph 3 of this Article every 5 years to determine sufficiency or fairness thereof. Lessor may increase the consideration, at a rate not to exceed the aggregate percentage of increase in the overall national consumer price index for the previous five (5) years and not to exceed a maximum of 15 percent. The lesser of the two rates will be utilized.

2. Option to Renew. LESSEE is hereby granted the option to renew this Lease for five separate and successive terms of five (5) years each, subject to negotiation of consideration

acceptable to both parties, provided, however, that LESSEE shall give LESSOR written notice of its intention to exercise its option at least sixty (60) days prior to the expiration of this Lease and at least sixty (60) days prior to the expiration of each successive five (5) year renewal term. Any termination for failure to exercise such option shall require thirty (30) days written notice to LESSEE. LESSEE may exercise the option within said 30-day period.

3. Consideration. As and for consideration for the terms set forth herein, the parties stipulate and agree to the sum of \$ 161.28 per year.

## ARTICLE II

### SPECIAL COVENANTS-CEDAR CITY REGIONAL AIRPORT

1. Airport Purposes. The LESSEE agrees as a condition precedent to this Lease and to the use and occupancy of the Lease premises that the LESSEE shall at all times use the leased premises for the primary purpose of constructing access to one (1) hangar. It is the purpose of this Lease to foster and abet air commerce at Cedar City Regional Airport, and it is not the intent of this Lease to provide premises for uses which do not promote the development and use of the Cedar City Regional Airport. All uses normally incidental to an airport such as car rental agencies, limousine service, restaurants, non-aeronautical businesses, insurance sales, and other such incidental services not directly related to general and commercial aviation are expressly prohibited unless specifically permitted or provided for in this Lease. Any assignment or sub-lease of the leased premises shall comply at all times with these conditions as to use and occupancy of the premises. Any primary use or occupancy contrary to the purposes set forth in this agreement shall constitute a breach of this Lease, and any assignment or sub-lease permitted under the provisions of this Lease shall contain this limitation.

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2. LESSEE'S PURPOSE.

(a) LESSEE intends to comply with the use and occupancy policies stated in the Lease and will occupy the premises for the purposes of constructing access to one Aircraft Hangar.

(b) The LESSEE agrees to notify the LESSOR in writing of any intended change of primary purpose prior to any such change being made by the LESSEE. Any such change in primary purpose shall be first approved by the LESSOR. The LESSOR shall promptly review the proposed change in purpose, and shall consent in writing to the proposed change if such change is consistent with the purposes set forth in paragraph 1 (Airport Purposes) of this Article.

It is understood that these provisions as to change are necessary in order for the City to be advised at all times of the various uses and purposes of uses of all the leased premises on Cedar City Regional Airport.

(c) LESSEE is responsible for cleanup of all construction refuse from results of any construction on their leased land. All clean-up must be accomplished within fourteen (14) days of completion of construction. If cleanup is not accomplished by LESSEE, LESSOR may at their choosing perform the cleanup and bill LESSEE for cleanup services.

3. Other Uses. The LESSEE shall not use or permit any part of the leased premises to be used for any unlawful purpose or for any purpose or use that may constitute a nuisance or fire hazard. The LESSEE shall not use or allow the leased premises or any part thereof to be used or occupied for any purpose in violation of any law, lawful order, rule or regulation concerning the operation or use of Cedar City Regional Airport.

4. Subordination of Lease.

(a) This Lease shall be subordinate to the provisions of any existing or future agreement

between the LESSOR and the United States relative to the operation or maintenance of Cedar City Regional Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development or operation of Cedar City Regional Airport.

(b) In connection therewith, the LESSOR has undertaken and may in the future undertake certain obligations respecting its operation of Cedar City Regional Airport and activities of its contractors, lessees and permittees thereon. The performance by LESSEE of the covenants, promises and obligations contained in this agreement is therefore a special consideration and inducement to the execution of this agreement by the LESSOR and LESSEE. The LESSEE further covenants and agrees that if the administrator of the Federal Aviation Administration, or any other governmental official or body having jurisdiction over the enforcement and the obligations of the City in connection with Federal or State aid, shall have made any orders or required recommendations respecting the performance by LESSEE of its obligations under this agreement, LESSEE shall promptly comply therewith, at such times and to the extent that the City may direct consistent with said orders or required recommendations. Failure on the part of the LESSEE promptly to comply with any such notice or direction shall be cause for cancellation of the agreement by LESSOR.

5. LESSEE's Right to Terminate. Should any governmental body, agency, or official, other than LESSOR, prohibit or otherwise prevent for an unreasonable length of time the use of Cedar City Regional Airport in its present condition for a public airport, or should the continued use of Cedar City Regional Airport as an airport otherwise become impossible or unlawful without the fault of the LESSEE, the LESSEE shall have the option to terminate the Lease on

thirty (30) days written notice to the LESSOR, and upon such termination, this agreement shall be at an end. The LESSOR shall notify the LESSEE in writing of the prohibition, and the failure of the LESSEE to exercise the option to terminate within thirty (30) days shall terminate the LESSEE's right of option.

6. Discriminatory Acts Prohibited.

(a) The LESSEE shall furnish any service to be rendered by the LESSEE in connection with or upon leased premises on a fair, equal, and not unjustly discriminatory basis to all users thereof.

(b) The LESSEE, in its use and occupancy of the leased premises, shall not discriminate against any person or class of persons by reason of race, color, religion, sex, age, handicap or national origin.

(c) The LESSOR shall give ten (10) days notice to the LESSEE of any alleged violations of sub-paragraph (a) or (b) and request the LESSEE either correct or justify any such alleged violation. In the event that such allegation remains in dispute, the matter shall be resolved by final decision of the appropriate administrative body or Court of competent jurisdiction.

LESSEE shall have thirty (30) days to comply with said decision; in the event of non-compliance, this Lease shall terminate. Any service or rate regulated by a State or Federal regulatory agency shall be deemed to be in compliance with the requirements of sub-paragraphs (a) or (b) until shown to be otherwise in an appropriate proceeding before the agency.

(d) The LESSOR, at its option, may forthwith terminate this Lease without any liability to LESSEE thereunder for any failure by LESSEE without justification to comply with the provisions of subparagraph (a) and (b), subject to the provisions of the preceding paragraph8).

7. Sign. The LESSEE may not, without the LESSOR's consent, place or erect any sign on the leased premises. At the termination of this Lease, any such signs shall be removed by the LESSEE at the LESSEE's own expense.

8. LESSOR Definition. The LESSOR includes the City Manager and the Public Works Director.

### ARTICLE III

#### DEFAULT AND ENFORCEMENT

1. Acts of Default Defined. Each of the following shall be deemed a default and a breach of this Lease:

(a) Failure to do, observe, keep and perform any of the terms, covenants, conditions, agreements and provisions of this Lease on the part of the LESSEE or LESSOR for a period of thirty (30) days after notice, except that if any default is not susceptible of being cured within thirty (30) days, either party shall be permitted an extension of thirty (30) days to cure such default, provided they commence promptly and proceed diligently and in good faith to cure such default within the thirty (30) day period; or

(b) The abandonment of the premises by the LESSEE, the adjudication of the LESSEE as a bankrupt, the making by the LESSEE of a general assignment for the benefit of creditors, or any insolvency act that jeopardizes LESSOR's rights hereunder, the appointment of a permanent receiver or trustee in bankruptcy for the LESSEE's property, the appointment of a temporary receiver or trustee in bankruptcy for the LESSEE's property, or the appointment of a temporary receiver not vacated or set aside within ninety (90) days from such appointment, for a period of ten (10) days after notice.

2. LESSOR's Remedies on Default. In the event of any such default by the LESSEE, and at any time thereafter the LESSOR elects to terminate this Lease upon a specified date not less than thirty (30) days after the date of serving such notice, except in case of a default under sub-division (b) of paragraph 1 of this Article in which event such notice shall not be less than ten (10) days from the date of service of such notice, this Lease shall then expire on the date so specified as if the date had been originally fixed as the expiration date of the term, including all options for renewal herein granted, unless such default shall be deemed waived by instrument in writing signed by the LESSOR, or cured by LESSEE before the expiration of the period specified in the notice of termination of this Lease served on the LESSEE. It is expressly agreed by the LESSEE that the written notice may, at the LESSOR's option, by statement expressly included in the notice, be the written notice required by the forcible entry and detainer statutes.

3. LESSEE Remedies on Default. In the event of LESSOR's default, and at any time thereafter, the LESSEE may, upon written notice to the LESSOR, be entitled to the following:

(a) All rights and remedies available at law or in equity, said rights and remedies to be cumulative; and

(b) The option of terminating the lease without further liability, upon thirty (30) days notice filed by the LESSEE to the LESSOR.

4. LESSOR's Re-entry on Default. In the event that this Lease shall be terminated as provided in paragraph 2 of this Article, or otherwise, or in the event that the premises, or any part thereof shall be abandoned by the LESSEE, 30 days vacancy of the premises without notice shall be deemed abandonment, the LESSOR may immediately or at any time thereafter, re-enter and resume possession of the premises or any part thereof, and remove all persons and property

therefrom, either by a suitable action or proceeding at law, or by any other lawful means. No re-entry by the LESSOR shall be deemed an acceptance of a surrender of this Lease or a liquidation or satisfaction to any extent whatever of LESSEE's liability to pay rent and additional rent as herein provided.

5. Right of LESSOR to Re-let. In the event that this Lease shall be terminated as herein provided, or otherwise, or if the premises, or any part thereof, shall be abandoned by the LESSEE, the LESSOR may, in its own name, but as agent for the LESSEE if the Lease be not terminated, or if the Lease be terminated in its own behalf, re-let the whole or any portion of the premises for any period equal to or greater or less than the remainder of said term, for any sum which it may deem suitable and satisfactory, and for any use and purpose which it may deem appropriate, and in connection with any such Lease the LESSOR may make such changes in the character of the improvements on the premises as the LESSOR may determine to be appropriate or helpful effecting such Lease. However, in no event shall the LESSOR be under any obligation to re-let the premises to any lessee which the LESSOR, in the exercise of reasonable discretion, shall deem to be objectionable. The LESSOR shall not in any event be required to pay the LESSEE any surplus of any sums received by the LESSOR on a re-letting of the premises in excess of the rent reserved in this Lease.

6. Damages on Default. In the event that this Lease is terminated by reason or default, or if the premises shall have been abandoned, whether or not the premises are re-let, the LESSOR shall be entitled to recover from the LESSEE, and the LESSEE shall pay to the LESSOR the following costs:

- (a) An amount equal to all expenses, if any, including reasonable attorney's fees incurred

by the LESSOR in recovering possession of the premises, and all reasonable costs and charges for care of the premises while vacant, which damages shall be due and payable by the LESSEE to the LESSOR at such time as such expenses shall have been incurred by the LESSOR; and

(b) An amount equal to the amount of all rent reserved under this Lease, less the net rent, if any, collected by the LESSOR on the several days on which the rent would have become due and payable; that is to say, upon each of such days the LESSEE shall pay to the LESSOR the amount of deficiency then existing. Such net rent collected on re-letting by the LESSOR shall be computed by deducting from the gross rents collected all expenses incurred by the LESSOR in connection with the re-letting of the premises or any part thereof, including, without limitation, brokers' commissions and the cost of repairing the premises or removing any structures.

7. Separate Action for Damages. Without any previous notice of demand, separate action may be maintained by the LESSOR against the LESSEE from time to time to recover any damages which, at the commencement of any such action, have then or theretofore become due and payable to the LESSOR under this Lease, without waiting until the end of the then-current term.

8. LESSOR's Failure to Enforce and Non-waiver. No failure by the LESSOR to insist upon the strict performance of any term, condition or covenant of this Lease or to exercise any right or remedy available on a breach thereof, and no acceptance of full or partial rentals during the continuance of any such breach shall constitute a waiver of any such breach or any such term, condition, or covenant. No term, condition or covenant of this Lease required to be performed by the LESSEE, and no breach thereof, shall be waived, altered or modified, except by a written instrument executed by the LESSOR. No waiver of any breach shall affect or alter any term,

condition or covenant of this Lease, and such term, condition or covenant shall continue in full force and effect with respect to any other than existing or subsequent default or breach thereof, and any other or subsequent default or breach may be enforced by the LESSOR as provided by this Lease.

9. LESSOR's Rights Cumulative. The rights given to the LESSOR in this Lease are cumulative, and in addition to any right that may be given to the LESSOR by any statutes, rule of law or otherwise, the LESSOR may exercise any such rights without limitations.

10. LESSOR's Right to Perform. If the LESSEE shall be in default hereunder, the LESSOR at LESSOR's discretion may cure such default on behalf of the LESSEE for the account and at the expense of LESSEE, in which event the LESSEE shall reimburse the LESSOR for all sums paid to effect such cure, together with interest at the rate of eight percent (8%) per annum and reasonable attorney's fees. In order to collect such reimbursements the LESSOR shall have all the rights and remedies available under this Lease for a default of payment of rentals. The LESSOR shall give thirty (30) days notice to the LESSEE of LESSOR's intent to cure the defect, but no notice shall be required if in the LESSOR's reasonable opinion an emergency exists. The provisions of this paragraph shall survive the termination of this Lease.

11. Rights of Access. The LESSOR shall have the right to enter upon the leased premises during reasonable hours (except in an emergency) to examine it, to show it to prospective Lessees, to post a "to let" or other similar signs within six (6) months prior to the expiration of any term, and to inspect, repair and take care of any utilities thereon. The LESSOR reserves the right of access and the right to abate any nuisances or hazardous conditions on the

premises at LESSEE's account and expense, including reasonable attorneys' fees, existing after ten (10) days notice has been given to abate such nuisance, hazard, provided no notice shall be required when in the LESSOR's reasonable opinion an emergency exists.

12. Surrender of Premises. At the expiration of any Lease term, or upon termination of this Lease as provided herein, the LESSEE shall peacefully and quietly surrender the leased property in as good a condition as it was at the beginning of the initial term, reasonable use and wear and damages by the elements excepted.

13. Design of Building and Improvements. The design of any additional buildings or external improvements to be placed on said leased property by LESSEE shall first be approved by LESSOR as to size, location, and materials used in the installation of the same. Furthermore, the height of any such building erected by LESSEE shall not exceed heights as set forth in FAA regulations.

14. Landscaping. Landscaping shall be installed and maintained by the LESSEE to conform to the requirements of the protective covenants of the Cedar City Industrial Park at LESSEE's expense.

15. Storage. Storage of any and all materials by LESSEE shall be made within the building installed by LESSEE on the premises and no equipment, trailers or other items, other than operable vehicles and aircraft, shall be stored outside said buildings. LESSEE shall maintain clean premises and shall not allow the accumulation of waste or garbage. At no time will LESSEE park any aircraft or vehicles on a non-paved surface.

## ARTICLE IV

### GENERAL COVENANTS

1. Conditions and Status of Premises. The LESSEE represents that LESSEE has examined the leased premises and accepts the premises in the condition in which they are, without representation or warranty, express or implied in fact or by law, by the LESSOR as to the title, nature, condition or usability of the premises for the purposes set forth in the Lease. Lessor warrants that it has title to the property, and the capacity, both legal and actual, to enter into this Lease and to grant the estate free and clear of any other liens or claims.

2. Maintenance of Premises. The LESSEE shall keep and maintain at all times the entire premises in good repair and in a neat, orderly and sightly condition. The LESSEE shall not cause or permit to remain any litter, debris, or other items and materials of any kind whatsoever (including garbage, gasoline drums, whether with or without any value) to be stored or to remain upon the leased premises without the express permission of the LESSOR. The LESSEE shall agree to remove all materials including litter, when so requested by the LESSOR, and upon the failure of the LESSEE to do so within five (5) days after such notification, the LESSOR may so remove or restore the premises at LESSEE's expense.

3. Compliance with Law. LESSEE shall comply with, abide by and conform to all laws, governmental order, City Charter, ordinances, rules and regulations, including any future amendments thereto, controlling or in any manner affecting LESSEE's use or occupancy of the premises, provided LESSOR shall indemnify and hold LESSEE harmless form damages resulting from hazardous materials not introduced by LESSEE.

4. Inspection. The LESSEE shall permit the LESSOR, or LESSOR's authorized agents

and employees, to enter upon the premises at any reasonable appointed time for the purpose of inspecting condition of the premises or the use thereof.

5. Taxes and Assessments. The LESSEE, in addition to the rentals provided for herein, shall pay when due (and before delinquency) all taxes, assessments and charges upon the leased premises, and upon buildings, improvements and property thereon, which are assessed or charged at any time during the term, including all required Cedar City business licenses. The LESSEE shall have the right at all times to protest any assessments of taxes or other assessments or charges, but the LESSOR may require the LESSEE to deposit with the LESSOR any sums in dispute to insure payment in the event that any protest is unsuccessful. This paragraph expressly excludes mechanic's and materialman's liens covered under Article IV-14.

6. Utilities. The LESSEE shall pay and be responsible for all charges for gas, electricity, water, light, heat, power, sewer and other utility services used in or about or supplied to the leased premises.

7. Liability. The LESSOR shall not be liable for injury or damage to persons or property occurring within or upon the leased premises, unless caused by or resulting from the negligence of the LESSOR or any of the LESSOR's agents, servants or employees in the operation or maintenance of the leased premises. LESSEE covenants that LESSOR is to be free from liability and claim for damage by reason of any injury to any person or persons including LESSEE, its agents, or employees, or property of any kind, whatsoever belonging, including LESSEE's, resulting from any cause or causes whatsoever, except for alleged claims based upon negligence or other misconduct by the LESSOR, while in, upon, or in any way connected with the premises during the term of this Lease, or any use or occupancy hereunder. LESSEE covenants to

indemnify and hold harmless LESSOR from all liability, loss, costs (including LESSEE's or LESSOR's attorneys' fees) and obligations on account of or arising out of any such injuries or losses, however occurring, including any acts, negligent or otherwise, by the agents, independent contractors, employees, or servants of the LESSEE, and the LESSEE agrees to defend the LESSOR at the LESSEE's cost (including attorney's fees) against all such claims, actions or suits, brought against the LESSOR.

8. Liability Insurance. LESSEE shall at all times during the term of this Lease maintain in force an insurance policy or policies which will name LESSOR and LESSEE as insured against all liability resulting from injury occurring to persons in or about the premises, the liability for such insurance to be not less than \$600,000.00, for any one person injured, \$2,000,000.00 for any one accident and \$200,000.00 for property damage. LESSEE shall provide a Certificate to LESSOR verifying said insurance. The original of such policy or policies shall remain in the possession of LESSEE, provided however; LESSOR shall have the right to receive from LESSEE, upon demand, a duplicate policy or policies of any such insurance.

9. Subsidence. The LESSOR shall not be responsible for any washout, subsidence, avulsion, settling or reliction neither to the premises, nor for any injury caused thereby to the property of the LESSEE or any person occupying the premises. The LESSOR shall not be obligated to replace, refill or improve any part of the leased premises during LESSEE's occupancy, in the event of such washouts, subsidence avulsion, settling or reliction.

10. Risk of Loss. No destruction or damage to any building or improvement on the leased premises by fire, rain, ice, snow, windstorm, earthquake, aircraft accident, or any other casualty or action of the elements shall entitle the LESSEE to surrender possession of the leased

premises, to terminate this Lease, to violate any of its provisions, or to cause any rebate or abatement in rent when due or thereafter becoming due under the terms hereof, except that if 60% or more of LESSEE's building on the premises are damaged or destroyed through acts of God or acts beyond the control of LESSEE, the LESSEE may terminate this Lease upon 30 days written notice, provided LESSEE shall repair or renovate structures, or remove debris, whichever is most economically feasible. If LESSEE elects to rebuild or remain on the premises, all obligations hereunder shall continue.

11. Repair and/or Rebuilding. Upon the destruction or damage to any building or structure by fire, rain, ice, snow, windstorm, earthquake, aircraft damage, or any other casualty or action of the elements, the LESSEE shall have the right to repair, restore or rebuild the building or structure, so long as construction commences within six (6) months and is complete within one (1) year after the date of such occurrence. LESSOR may extend the above deadlines at LESSOR's discretion. If LESSEE chooses to repair or rebuild, all obligations hereunder shall continue.

12. Condemnation.

(a) If the leased premises, or any part thereof, rendering the remainder unusable is taken by eminent domain, this Lease shall expire on the date when the leased property is taken by a declaration of taking, without prejudice to LESSEE's rights against condemnor, or on the date when the condemnor is granted possession of the premises and the rent shall be apportioned as of that date.

(b) The LESSEE shall be entitled to the award of the building structures and improvements placed upon the premises by the LESSEE whether existing at inception or subsequently erected, and the LESSOR shall be entitled to the award from the ground leased and

for any improvements placed upon and benefitting the premises by the LESSOR or acquired by the LESSOR from the LESSEE or any other person.

(c) The LESSEE shall be entitled to relocation costs if provided by law.

13. Reservation of Rights of Way and Easements. The LESSOR reserves for the purpose of constructing and maintaining City utilities:

(a) The right of reasonable ingress and egress to, over and from the leased premises for these purposes; and

(b) Reasonable easements over, under and through the leased premises for these purposes.

14. Liens and Encumbrances. If at any time during said term, whether during the period of construction or reconstruction of buildings, or at any other times, any liens or encumbrances of mechanic, laborers or materialmen, or secured transactions (not consented to by the LESSOR), shall be filed against the premises or any part thereof, the LESSEE shall, at its own expense procure the liens and/or encumbrances to be discharged by payment, bonding or otherwise as provided by law, and as a condition precedent to this Lease, discharge the liens or encumbrances within thirty (30) days after receiving written notice from the LESSOR that the same is filed or recorded, provided however, LESSEE shall have the right to contest the validity or amount of any such lien or claimed lien. In the event of such contest, LESSEE shall give to LESSOR reasonable security as may be demanded by LESSOR to insure payment thereof and prevent any sale, foreclosure or forfeiture of the premises or improvements by reason of such non-payment. Such security need not exceed one and one-half times the amount of such lien or claimed lien. The LESSEE, upon reasonable notice and request in writing from the LESSOR, shall also defend for the LESSOR, at the LESSEE's sole cost and expense, any action, suit or proceeding which may be brought on or for the enforcement of any lien or encumbrance and shall pay any damages

and satisfy and discharge any judgment entered in such action, suit or proceeding and save harmless the LESSOR from any liability claim or damages resulting therefrom. In the event of default by the LESSEE procuring the discharge as aforesaid of any such lien, or security transaction, the LESSOR may, at the LESSOR's option, terminate this lease, or without further notice procure the discharge thereof by bonding or payment or otherwise, and all cost and expenses to which the LESSOR may be put in obtaining such discharge shall be paid by the LESSEE to the LESSOR as additional rent.

15. Assignment or Sub-leasing.

(a) The LESSEE shall not assign or sub-let any interest in the premises, without the prior written consent of the LESSOR; said consent shall not be unreasonably withheld. Any violation of this covenant shall be subject to the provisions of Article III, Default and Enforcement, of this agreement. The LESSEE covenants not to assign or sub-lease its interest in the premises unless the proposed assignee or sublessee agrees in writing to assume and perform all the terms, conditions and covenants of the Lease imposed by the LESSOR. The LESSEE shall furnish the LESSOR with a copy of any proposed assignment or sub-lease for approval prior to any assignment or sub-lease, and shall further furnish a copy to the LESSOR of any executed assignment or sub-lease.

(b) No assignment, sub-lease, or occupancy permitted under sub-paragraph (a) of this paragraph shall relieve LESSEE of any of LESSEE's obligations herein, and LESSEE agrees to hold the LESSOR harmless from loss because of the non-payment of rentals, taxes or assessments or other charges incurred on the premises by any assignee, sub-lease or occupant.

(c) Prior written consent by the LESSOR shall not be unreasonably withheld. Consent to the sub-lease or assignment may only be withheld if the proposed sub-lease or assignment, or the

use represented thereby, is contrary to the provisions of this Lease, or violates FAA criteria for airport related property.

16. Mortgages and Encumbrances.

(a) The LESSEE covenants that it shall not mortgage or otherwise encumber this Lease (including LESSEE's leasehold estate in the installation of improvements thereon) without the prior consent of the City in writing. Any violation of this covenant shall be subject to provisions of Article III, Default and Enforcement, of this agreement. In no event shall there be at any time more than one existing mortgage of this lease.

(b) The LESSOR's consent to the mortgage or encumbrance shall not be unreasonably withheld. The LESSEE shall furnish the LESSOR with a copy of any security transactions mortgaging or encumbering the premises for the LESSOR's approval prior to any mortgaging or encumbering of the premises, and shall further furnish a copy to the LESSOR of any such executed security transactions.

17. Quiet Enjoyment. Conditioned upon LESSEE's paying the rent herein provided and performing and fulfilling all covenants, agreements, conditions and provisions of this Lease herein to be kept, observed and performed by LESSEE, LESSEE shall have and may at all times during the term hereby granted peaceably and quietly hold, have and enjoy the leased premises.

18. Buildings and Improvements. At the conclusion of this Lease, any building, fixtures, and improvements then existing on the premises shall belong to LESSOR and all personal property shall belong to LESSEE. LESSEE may, however, remove any building and restore the property to its original condition.

19. Holdover. In the event the LESSEE shall hold over after the termination of this Lease for any cause whatsoever, such holding over shall be deemed a tenancy from month to

month only, at the same rental per month and upon the same terms, conditions and covenants as set forth herein. Such holding over period shall include any time employed by the LESSEE to remove any buildings, structures or improvements permitted by this Lease.

20. Modification. The Lease shall not be modified, altered or changed in any way whatsoever unless in writing and signed by both parties hereto.

21. Notice.

(a) Any notice under this Lease shall be in writing and shall be sent registered or certified mail to the last known address of the parties to whom the notice is to be given, as designated by such party in writing. The LESSOR hereby designates its address as: 10 North Main, Cedar City, Utah 84720.

(b) Any notice shall be deemed to duly govern only if mailed in a postpaid envelope addressed as provided in sub-paragraph

(c) If either party admits, either in writing or under oath, the receipt of notice, evidence of service in accordance herewith shall not be necessary.

(d) Any notice, demand, request or other communication required to be in writing shall be deemed to have been given at the time it is duly deposited and registered in any United States Post Office. This provision shall not apply to any payments of rentals or monies required under this Lease.

22. LESSEE Independent Contractor. LESSEE is and shall be an independent contractor, and shall be in no manner whatsoever the agent or servant of the LESSOR. The LESSEE is responsible to all parties for all of its acts or omissions, and the LESSOR shall be in no way responsible therefore.

23. Jurisdiction. It is agreed that any civil action concerning this Lease shall be

commenced in a court of competent jurisdiction in Iron County, Utah.

24. Time is of the Essence. It is agreed and understood by the parties that time is of the essence as to each and every provision, condition, covenant or other term of this Lease.

25. Captions. The captions are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Lease, nor the intent of any provisions thereof.

26. Successors in Interest. All of the terms, covenants, conditions and agreements herein contained shall in every case be binding upon the respective heirs, legal representatives, successors and assigns of the parties hereto, and all terms, covenants, conditions and agreements contained herein shall be deemed to be not only for the benefit of and enforceable against the LESSEE, but also against the heirs, legal representatives, successors and assigns of the LESSEE, and that the LESSEE shall not be discharged from any liability by any assignment or sub-lease of the premises, or any part thereof, or of this Lease, notwithstanding the fact that the LESSOR has consented to such sub-lease or assignee as a Lessee hereunder.

27. Recordation of Lease. The LESSOR intends to record this lease with the Iron County Recorder.

28. Invalid Provisions. In the event that any covenant, condition or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition or provision shall in no way affect any other covenant, condition or provision herein contained, provided the invalidity of such covenant, condition or provision does not materially prejudice either LESSOR or LESSEE in its respective rights and obligations contained in the valid covenants, conditions or provisions of this Lease.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year set forth above.

LESSOR:

\_\_\_\_\_  
Maile Wilson, MAYOR  
Cedar City Corporation

ATTEST:

RENON SAVAGE, CITY RECORDER

STATE OF UTAH    )  
                          : Ss.  
COUNTY OF IRON )

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ , before me, the undersigned, a Notary Public, in and for the State of Utah, duly commissioned and sworn as such, personally appeared Maile Wilson, known to me to be the Mayor of Cedar City Corporation, and Renon Savage known to me to be the City Recorder of Cedar City Corporation, and acknowledged to me that he the said Maile Wilson and she the said Renon Savage executed the foregoing instrument as a free and voluntary act and deed of said corporation, for the uses and purposes therein, and on oath state that they were authorized to execute said instrument, and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove written.

\_\_\_\_\_  
NOTARY PUBLIC



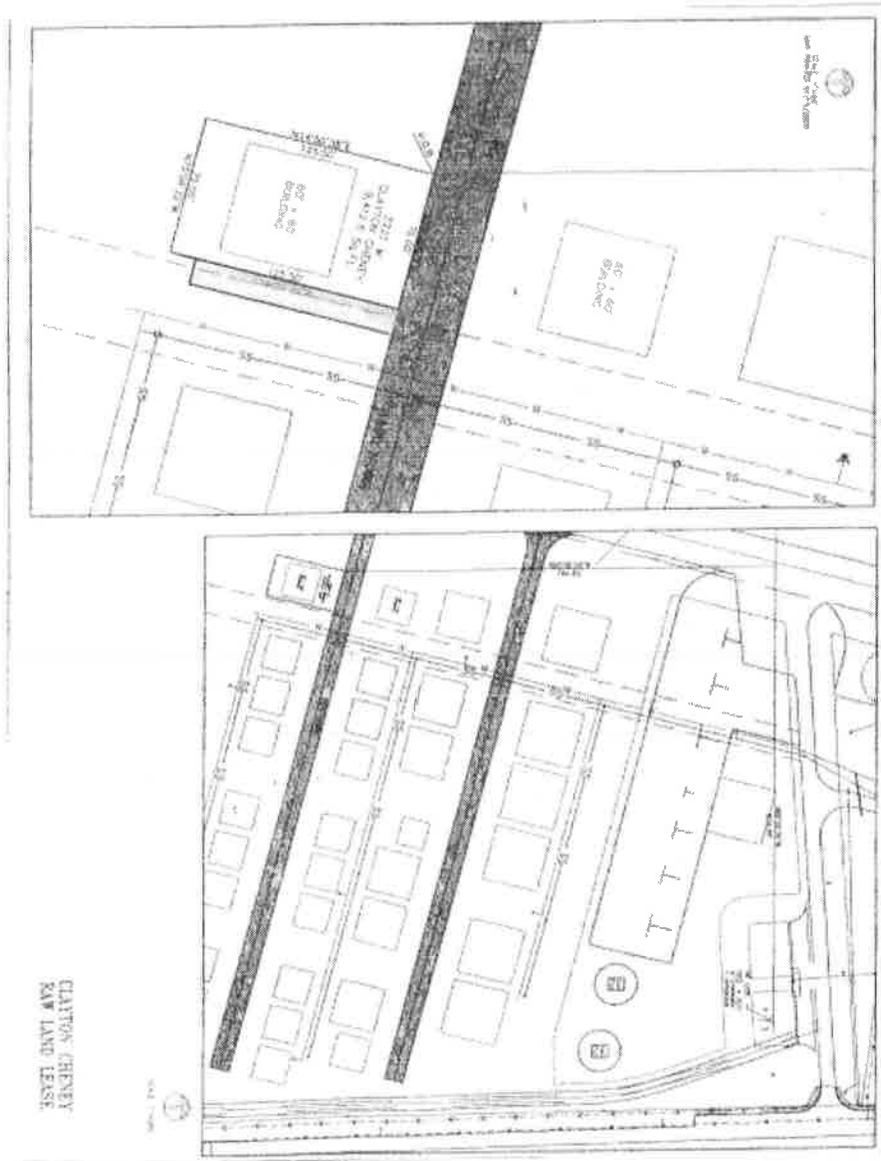


Exhibit A

**CEDAR CITY COUNCIL  
AGENDA ITEM   5**

**INFORMATION SHEET**

**TO:** Mayor and City Council

**FROM:** Rick Holman

**DATE:** May 5, 2014

**SUBJECT:** Water Rate modification

**DISCUSSION:** The City changed the water utility rate structure, effective January 2013. The Iron County School District noticed the significant increase when the irrigation started last Spring. As intended, the District facility staff modified the irrigation practices for the large playing fields to ease the financial impact. As a result, some of the playing fields used for Summer Games were not in the best shape and concerns were expressed by Summer Games participants.

The School District wants to be a good host as they have been for many years. In order to provide safe and playable fields, the watering may need to be a little more generous for a couple of months.

It is proposed that the Council consider charging the District the non-culinary rate for the additional water (difference from what was used last year and the year before the rate change) on the fields that use culinary water for the approximate two months leading up to the Summer Games.

An estimate of what this would mean in revenue will be presented at the May 7 Work Meeting.



**CEDAR CITY  
COUNCIL AGENDA ITEM 6  
STAFF INFORMATION SHEET**

**TO:** Mayor and Council

**FROM:** Kit Wareham

**DATE:** May 7, 2014

**SUBJECT:** Review Cooperative Agreement with Utah Department of Transportation (UDOT) to Facilitate the "Pass Through" of UDOT Funds to Boulevard Home Furnishings for Storm Drain and Curb and Gutter Improvements Required by UDOT on the Boulevard Home Furnishings Project

As described in the attached agreement UDOT has requested that certain improvements be installed as part of the Boulevard Home Furnishings Project soon to open on south Main Street. Specifically these improvements are the extension of a 15 inch storm drain line from the Highway to Boulevard's on-site storm drain system and some curb and gutter replacement on the street.

By policy UDOT does not participate directly with private property owners on these types of projects but goes through the Local Government to pass through their participation to the property owner. When the project is complete UDOT will inspect the improvements and once approved, and after receipt of an invoice from Boulevard, the City will submit a payment request to UDOT for the improvements, not to exceed \$26,000 in this case. After the City has received payment from UDOT the City will then pay Boulevard.

If money is available in the \$26,000, the City can include City Engineering and Administration time in our payment request.



**State of Utah  
Department of Transportation**

<b>Cooperative Agreement Local Agency</b>	Project Description: Construct 15" culvert storm drain extension at MP 0.85 to MP 0.9, SR-130 and 50% cost of curb and gutter replacement.	Estimated value of scope of work
	Local Agency: Cedar City Corp.	\$26,000
		Date Executed

**THIS AGREEMENT**, made and entered into the date shown below, by and between the **UTAH DEPARTMENT OF TRANSPORTATION**, hereinafter referred to as "UDOT", and **CEDAR CITY CORP.** a political subdivision of the State of Utah, hereinafter referred to as the "Local Agency,"

Subject to the attached provisions, **UDOT** will include the following items into the above referenced Project. Upon signing this agreement, **Local Agency** agrees that the costs shown are the averaged and aggregated costs of the inventory items and that the **Local Agency** will be responsible for paying the actual costs associated with these items, based on unit bid prices, and actual quantities placed. The **Local Agency** also agrees to pay all costs associated with the pickup and delivery of the inventory items. Upon completion of the project referenced above, the **Local Agency** will contact **UDOT** for a final project review and inspection. **UDOT** reserves the right of refusal of payment unless the scope of work is completed to the standards established by **UDOT**. The **Local Agency** has the right to make any corrective action and resubmit for inspection, approval, & payment of the original amount.

Description of Work: Participate in actual cost or \$23,000 max. for extension of 15" storm drain at Boulevard Home Furnishing Store at MP 0.85 to MP 0.9 on SR-130 to tie into the developer's storm drain project. Participate in 50% of actual cost or \$3000 max. to replace sections of failed curb and gutter.

Costs to include: Labor, Engineering, Materials, and management of project.

List or Description of Items

Item #	Item Description	Estimated Quantity	Unit Price	Estimated Cost
1	<i>Storm Drain Extension</i>	1	Lump	\$23,000
2	<i>50% cost share on replacement of curb and gutter</i>	1	Lump	\$3000
	Estimated Total Costs			\$26,000

Once final signoff has occurred, the **Local Agency** will submit the receipts of payments made on the project to the **UDOT** Region 4 office. The payment of the originally committed amount or the direct costs of approved activities, whichever is less, will be processed as promptly as is available by the accounting department and a check will be sent to the **Local Agency**.

**Total Estimated Reimbursement to the Local Agency is \$26,000 maximum or actual cost as shown above.**

## **Provisions**

**(Note: the language in these provisions shall not be changed without prior approval from the Utah AG's office)**

UDOT has prepared plans, specifications and estimates of costs for the construction of the project identified on page 1, hereinafter referred to as the "Project."

The Local Agency requested to include the betterment work items described on page 1 in the Project contract work.

UDOT is agreeable to include the Local Agency's requested betterment work providing that the Local Agency pay the actual additional costs incurred. The Local Agency agrees that UDOT's Project will not be delayed as a result of adding these betterments and that no betterments will be added to the bid package until this agreement has been signed by both parties.

The Local Agency, at no cost to the Project, shall provide on-call support from Local Agency's Design Engineer to correct or clarify issues during construction and perform the necessary inspection for the Local Agency work installed by the contractor. The Local Agency engineer and/or inspector shall work with and through UDOT's Project Manager and shall give no orders directly to UDOT's Contractor unless authorized in writing to do so. It is agreed that UDOT's Contractor will accomplish the work covered herein on Local Agency's facilities in accordance with the plans and specifications to include changes or additions to said plans and specifications which are approved by the parties hereto. The Local Agency, through its inspection of said work, will provide UDOT's Project Manager with information covering any problems or concerns the Local Agency may have with acceptance of said facilities upon completion of construction.

It is understood that access for maintenance and servicing of the Local Agency property located on State right of way will be by permit issued by UDOT to the Local Agency, and that the Local Agency will obtain said permit and abide by the conditions thereof for policing and other controls in the conformance with Utah Administrative Code R930-6.

## **I. Liability:**

UDOT and the Local Agency are both governmental entities subject to the Governmental Immunity Act. The Local Agency agrees to indemnify UDOT, its officers, employees, and agents and hold them harmless from and against all claims, suits and costs, including attorneys' fees for injury or damage of any kind, arising out of the Local Agency's negligent acts, errors or omissions in the performance of this project, and from and against all claims, suits and costs, including attorneys' fees for injury or damage of any kind, arising out of the Local Agency's failure to inspect, discover, correct, maintain or otherwise address any defect, dangerous condition or other condition created by or resulting from the Local Agency's negligent acts, errors or omissions in the performance of this project. Nothing in this paragraph is intended to create additional rights to third parties or to waive any of the provisions of the Governmental Immunity Act.

To the extent it may be lawfully do so, the Local Agency further agrees to relieve UDOT from any responsibility or liability that may result from the Local Agency operation or maintenance activities covered herein.

Any periodic plan and specification review or construction inspection performed by UDOT arising out of the performance of the project does not relieve the Local Agency of its duty in the performance of this project or to ensure compliance with acceptable standards.

## **II. Termination:**

This agreement may be terminated as follows:

- a. By mutual agreement of the parties, in writing
- b. By either UDOT or the Local Agency for failure of the other party to fulfill their obligations as set forth in the provisions of this agreement. Reasonable allowances will be made for circumstances beyond the control of the parties. Written notice of intent to terminate is required and shall specify the reasons for termination.

- c. By UDOT for the convenience of the State upon written notice to the Local Agency.
- d. Upon satisfactory completion of the provisions of this agreement.

**III. Maintenance:**

The Local Agency agrees that, upon completion and final inspection of the Project construction, to accept, own and maintain the betterment work covered herein at no cost to UDOT.

**IV. Payment and Reimbursement to UDOT:**

The Local Agency shall be responsible for all actual costs associated with these betterment items.

The Local Agency agrees that if it modifies or cancels this betterment agreement at any time after it has been signed, the Local Agency agrees to pay any cancellation penalties or costs incurred by UDOT as a result of the betterment work scope being modified or cancelled. In the event the Local Agency fails to reimburse UDOT for the costs included in this betterment

agreement, funding for other Local Agency projects or B&C road funds may be withheld until the entire payment is made.

**V. Change in Scope and Schedule:**

The Local Agency recognizes that if its project scope or schedule changes from the original intent of this agreement, the UDOT Project Manager will be notified prior to changes being made. Any costs incurred by UDOT, as a result of these scope or schedule changes, will be the responsibility of the Local Agency.

In the event there are changes in the scope of the work, extra work, or changes in the planned work covered by this agreement, a modification to this agreement approved in writing by the parties hereto is required prior to the start of work on said changes or additions.

**VI. Content Review:**

Language content was reviewed and approved by the Utah AG's office on May 21, 2009.

[Agency name here]				Utah Department of Transportation			
By		Date		By		Date	
Maile Wilson, Mayor				Jim McConnell, District Engineer			
By		Date		By		Date	
Attest, Renon Savage, City Recorder				Rick Torgerson, Region 4 Director			
By		Date		By		Date	
Title/Signature of additional official if required				Comptrollers Office			



**CEDAR CITY  
COUNCIL AGENDA ITEM 7  
STAFF INFORMATION SHEET**

**TO:** Mayor and Council

**FROM:** Kit Wareham

**DATE:** May 7, 2014

**SUBJECT:** Review Proposed Amendments to the Cedar City Waterworks Ordinance Sections 37-21 and 37-22

**DISCUSSION:**

In March the City Council approved a resolution charging commercial businesses outside the City limits that are currently connected to the City culinary water system double the City non-residential rate of \$1.00 per 1000 gallons of water instead of double the tier 3 residential rate. The proposed amendments to the water ordinance are an effort to coordinate the water ordinance with the previously approved resolution to adjust the user rates.

Attached is the amended Sections 21 and 22 of the water ordinance. Also attached is an edited version of Section 21 and 22 of the current ordinance that shows all the amendments. Besides the changes to the commercial rates for users outside the City the following other changes have been made:

- a. The word "Livestock" has been eliminated from the titles to both sections and the heading to Section 22 since these sections have always applied to more than just Livestock;
- b. Clarified that no additional residential or commercial connections will be allowed outside the City;
- c. It is proposed to not require an annual application for water users outside the City;
- d. Clarified that no more than one user shall be on one meter;
- e. The application fee will be as approved in the City Consolidated Fee Schedule;
- f. Stated the reason for allowing connections for livestock watering outside the City was to give incentive to have livestock moved outside the City limits.
- g. Added a new provision allowing the City to connect to other political subdivisions or service districts in order to purchase or sale water at wholesale rates when deemed necessary.

## **SECTION 37-21. Water Service Outside City Limits.**

Culinary water from the distribution lines of Cedar City, Utah, may be used for livestock watering, or to provide water as currently provided to existing residential or commercial customers. This section of the Ordinance shall not be interpreted as allowing any additional water connections to Cedar City Water System for residential or commercial connections outside the City Limits of Cedar City, Utah. Other uses may be allowed outside the City limits but only in accordance with City ordinance and amendments thereto.

## **SECTION 37-22. Use Restrictions on Water Service Outside City Limits.**

The following use restrictions shall apply in connection with the use of Cedar City culinary water service outside City limits:

- A. The user shall at his own expense install all connections and meters as required by Cedar City in accordance with the current Cedar City Engineering Standards.
- B. No connection shall be made to the distribution system of Cedar City, Utah, except under the direct supervision of the Superintendent of the Water Department.
- C. At the point of each connection to any distribution line, a meter shall be installed, at the expense of the user, in accordance with current Cedar City Engineering Standards.
- D. No more than one user shall be on any metered connection to said distribution system.
- E. At the time of the initial application an administration fee shall be assessed as established in the City's consolidated fee schedule. The use rate for connections outside the City limits for Livestock watering and residential connections shall be double the Residential Tier III (excessive irrigation) rate charged within the City Limits. The user rate for commercial connections outside the City limits shall be double the Commercial rate charged within the City limits. Any expense incurred by Cedar City caused by the use of said water shall be billed to the user and be considered as part of the fee for the use of said water, in addition to the amount provided for in this paragraph.
- F. Cedar City, Utah, specifically reserves the privilege and right at any time, with or without notice, for any reason satisfactory to Cedar City, Utah, to shut off the water and terminate this use, and in the event of a water shortage. Connections outside the City Limits may be shut off before there is any limitation of water use within the City Limits.
- G. Each user shall meet the standards of the Utah State Board of Health concerning

possible contamination of water supplies, potential water supplies, disposal of sewage, disposal of waste, condition of corrals, and any and all sanitary items, and in addition, Cedar City Corporation specifically reserves the right to impose any additional requirements on these items deemed necessary by the governing body of Cedar City, Utah.

- H. The user is to be entirely responsible for the construction and maintenance of any service line connected under authority of this ordinance, and in the event Cedar City incurs any expense whatsoever because of the user's service line or connection, the user shall be required to reimburse Cedar City, Utah for the actual expense incurred.
- I. Any unauthorized hookup or connection on any line installed under authority of this ordinance shall automatically terminate the use of water for the entire offending line, and all sums on deposit from said offending line shall be forfeited and there shall be no renewal without the approval of the governing body of Cedar City, Utah.
- J. No connection may hereafter be made under authority of this ordinance except to a corral for livestock use only, said corral to be owned, used and occupied by a bona fide resident of Cedar City, Utah, residing in a dwelling in Cedar City, Utah, normally occupied by said individual. The intent of this provision is to encourage the removal of livestock, as defined in the City's Animal Control Ordinance, from within the City limits.
- K. Connections of the City water system to other political subdivisions or special service districts water systems may also be allowed in order to purchase or sell water at wholesale rates at times when deemed necessary and appropriate by the Mayor.

**SECTION 37-21. Livestock Watering Water Service Outside City Limits.**

Culinary water from the distribution lines of Cedar City, Utah, may be used for livestock watering, or to provide water as currently provided to existing residential or commercial customers. This section of the Ordinance shall not be interpreted as allowing any additional water connections to Cedar City Water System for residential or commercial connections outside the City Limits of Cedar City, Utah; Other uses may be allowed outside the City limits but only in accordance with this City ordinance and amendments thereto.

**SECTION 37-22. Use Restrictions on Livestock Watering Water Service Outside City Limits.**

The following use restrictions shall apply in connection with the use of livestock: \_\_\_\_\_

- ~~A.~~ A separate application must be made by each user each year on or before the first day of March of each year.
- ~~B.~~ Cedar City culinary water service outside City limits:
  - A. The user shall at his own expense install all connections and meters as required by Cedar City in accordance with the current Cedar City Engineering Standards.
  - ~~B.~~ -No connection shall be made to the distribution system of Cedar City, Utah, except under the direct supervision of the sSuperintendent of the Water Department.
  - ~~C.~~ At the point of each connection to any distribution line, a meter shall be installed, at the expense of the user, in accordance with current Cedar City Engineering Standards.
  - ~~D.~~ ~~If~~No more than one user ~~is~~shall be on any pipemetered connection to said distribution system; ~~separate meter arrangements shall be made for each user at the expense of the users.~~
  - E. At the time of the initial application ~~a fifty dollar (\$50.00)~~an administration fee shall be assessed. ~~The rate for use of the connection as established in the City's consolidated fee schedule. The use rate for connections outside the City limits for Livestock watering and residential connections shall be double the Residential Tier III (excessive irrigation) rate charged within the City Limits of Cedar City, Utah, plus any. The user rate for commercial connections outside the City limits shall be double the Commercial rate charged within the City limits. Any expense incurred by Cedar City caused by the use of said water, and shall be billed to the user and be considered as part of the fee for the use of said water, in addition to~~

the amount provided for in this paragraph provided for.

- GF. Cedar City, Utah, specifically reserves the privilege and right at any time, with or without notice, for any reason satisfactory to Cedar City, Utah, to shut off the water and terminate this use, and in the event of a water shortage, ~~c.~~ Connections outside the City Limits may be shut off before there is any limitation of water use within the City Limits.
- HG. Each ~~applicant~~ user shall meet the standards of the Utah State Board of Health concerning possible contamination of water supplies, potential water supplies, disposal of sewage, disposal of waste, condition of corrals, and any and all sanitary items, and in addition, Cedar City Corporation specifically reserves the right to impose any additional requirements on these items deemed necessary by the governing body of Cedar City, Utah.
- HH. The user is to be entirely responsible for the construction and maintenance of any service line connected under authority of this ordinance, and in the event Cedar City incurs any expense whatsoever because of the user's service line or connection, the user shall be required to reimburse Cedar City, Utah for the actual expense incurred.
- JI. Any unauthorized hookup or connection on any line installed under authority of this ordinance shall automatically terminate the use of water infor the entire offending line, and all sums on deposit from said offending line shall be forfeited and there shall be no renewal without the approval of the governing body of Cedar City, Utah.
- KJ. ~~No~~ No connection may hereafter be made under authority of this ordinance except to a corral for livestock use only, said corral to be owned, used and occupied by a bona fide resident of Cedar City, Utah, residing in a dwelling in Cedar City, Utah, normally occupied by said individual. The intent of this provision is to encourage the removal of livestock, as defined in the City's Animal Control Ordinance, from within the City limits.
- K. Connections of the City water system to other political subdivisions or special service districts water systems may also be allowed in order to purchase or sell water at wholesale rates at times when deemed necessary and appropriate by the Mayor.



CEDAR CITY COUNCIL  
AGENDA ITEMS V - 8  
DECISION PAPER

**TO:** Mayor and City Council

**FROM:** Paul Bittmenn

**DATE:** May 5, 2014

**SUBJECT:** Discuss amendments to City's Water Acquisition Ordinance.

**DISCUSSION:**

The City's current water acquisition ordinance is found in Chapter 37, Section 32 of the City's ordinance. Attached is a copy. The ordinance contains nine (9) subsections dealing with the following topics: Subsection #1 – Findings; Subsection #2 - Purpose and Policy; Subsection #3 – time to acquire water rights or pay special assessment; Subsection #4 – Acquisition of a reserve; Section #5 – acquisition of excess water rights; Subsection #6 - Agricultural uses to continue and accounting for water rights; Subsection #7 - Amount and type of water required – Exception; Subsection #8 – Establishment of Special Assessment; and Subsection #9 Effective date.

The conversation during the last City Council meeting tended to focus on the continued use of water rights for agricultural purposes. So this decision paper will focus on Subsection #6 of the City's water acquisition ordinance. If the desire is to do away with the section of the ordinance that allows agricultural concerns to continue the use of water once they annex, then the simple solution would be to repeal subsection #6. The council may want to consider including some language in the ordinance repealing subsection #6 that states it is the City's intent to honor the agreements in place prior to repealing the ordinance related to agriculture's continued use of water rights.

There was also some conversation during the last City Council meeting related to the impact of the water acquisition ordinance on a property that is forced to annex. For the most part State law (UCA §10-2-403) requires the petition to annex a defined area of land to contain the signatures of the owners of a majority of the land and at least 1/3 of the total value of the area proposed for annexation.<sup>1</sup> So, it is possible that a property does not sign the petition to annex, but ends up being annexed. Just focusing on water acquisition, as a practical matter the City needs to work with the annexing party to have the water rights transferred, so there is not a surprise factor when it comes to dedication of water rights. The City could include something related to not requiring water from those who do not sign the annexation petition.

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<sup>1</sup> State law requires 100% of the land owners within an area to sign if the land is within an agricultural protection area or a migratory bird protection area. Also, State law requires that if all of the property within the proposed annexation is owned by a public entity other than the federal government the petition contain the signatures of all of the publically owned land.

After the discussion during the work meeting I can draft an ordinance for your consideration during the action meeting.

**SECTION 37-32. Water Acquisition.**

Section 32-1. Findings.

- A. Cedar City has limited water rights. Cedar City provides culinary and irrigation water for residential, commercial, and industrial uses consistent with City ordinance. There are limited water rights in the Cedar City area and these resources are used by Cedar City, Enoch City, the Central Iron County Water Conservancy District, agriculture, private owners, and private water corporations.
- B. Cedar City is experiencing sustained residential, commercial, and industrial growth, and growth necessitates acquisition of additional water rights.
- C. The City Engineer has conducted an analysis of the City's reasonable water needs. That analysis is incorporated herein and forms the basis for this ordinance. Cedar City contracts for the appraisal of water rights, future appraisals shall be used to determine the amount of special assessment to be charged as an alternative to dedicating water rights.
- D. The State of Utah water engineer has determined that the water rights in the Cedar Valley Aquifer have been fully appropriated and has closed the basin to future appropriation of water rights.

Section 32-2. Purpose and policy.

- A. Cedar City's primary purpose for establishing this ordinance is to acquire the water rights necessary to serve its expanding population. Therefore, nobody will be allowed to pay the special assessment established herein if the property on which they are filing a land use application has been the point of use for water in the previous three years or since the enactment of this ordinance, whichever is the shorter look back period.
- B. In order to carry out the policy stated above, it is hereby ordained that all land within Cedar City, or petitioning for annexation into Cedar City, is wet land if: the property has been the point of use for water within the look back period described in section 32-2(A); or the land was wet at the time of annexation and deferred conveyance of water rights in accordance with 32-3-A-1. All wet land must deed all water rights used on the land up to the amount sufficient to satisfy the provisions of this ordinance and may not pay the special assessment for the deeded water.
- C. All land that has not been the point of use for water within the look back period described in section 32-2(A) prior to filing of a land use application and did not defer water conveyance at the time of annexation in accordance with 32-3-A-1, is ordained to be dry land and the party submitting a land use application may pay the special assessment contained in this ordinance and not be required to deed water rights to the

City.

- D. All land use applications filed with Cedar City must be accompanied by sufficient documentation from the state engineers office to show if the subject property was or was not the point of use for any water rights within the look back period described in section 32-2(A) .

Section 32-3. Time to acquire water rights or pay special assessment.

- A. **Annexation.** Unless part of the annexation property qualifies for a deferment of water right conveyance as per Section 32-3(A)(1), if the property is wet land pursuant to section 32-2(B), the City shall require the deeding of water rights sufficient to comply with this ordinance at the time of annexation. If, when proposing annexation, the property is dry land pursuant to section 32-2©, the parties will agree to either acquire water sufficient for the annexation, and deed those rights to the City; or pay the City the special assessment established by this ordinance prior to receiving final approval for a residential subdivision per Section 32-3B, or prior to receiving a building permit per Section 32-3C.

1. DEFERMENT OF WATER CONVEYANCE.

- a. A land owner that signs the petition to annex may defer the conveyance of water only if;

1. The total land area (measured in acres) that wants to defer the conveyance of water does not exceed ten percent (10%) of the total land area (measured in acres) of the annexation, and;
2. The total amount of water rights requesting the deferred conveyance (as measured in acre feet) does not exceed ten percent (10%) of the total surface or subsurface water used on the property (as measured in acre feet) at the time of annexation.

The deferring land owner's land will be considered wet pursuant to the terms of this ordinance so that at the time the present or subsequent owner subdivides or applies for a building permit they will not be allowed to pay a fee instead of conveying water rights. The land owner will be required to convey 1.5 acre feet of water per acre of land pursuant to the provisions of this ordinance.

- b. A land owner that does not sign the petition and does not convey water rights at the time of annexation shall have their property deemed dry property pursuant to this ordinance.

2. Required Notice

The annexation petition sponsor in an annexation having any parties that do not sign the petition, or want to defer the conveyance of water shall send out the following written notice via certified mail return receipt requested, to all owners of land within the boundaries of the annexation petition:

- a. that the owner's property is being petitioned for annexation;
  - b. that as a condition of annexation and development within Cedar City's boundaries, all water rights used on the land at the time of annexation, up to the amount sufficient to satisfy the provisions of Section 37-32, will be required at the time of annexation or at the time of development as set forth in Section 37-32-7; and
  - c. that if water is conveyed to Cedar City at the time of annexation, the amount of water required by Cedar City, per acre, is less than the amount of water required at the time of development or at the time of requesting a building permit as per section 37-32-7(A)(1) and (2); and
  - d. that if water is being used on the owner's land at the time of annexation, Cedar City will not permit development of the land without the owner providing to Cedar City the required water. Payment of the special assessment will not be permitted as per Section 37-32-2(B); and
  - e. that if water is not being used on the owner's land at the time of annexation, or the owner does not sign the petition for annexation, payment of the special assessment will be permitted in accordance with the amount of water required per acre as per Section 37-32-7(A)(1) and (2).
3. Required Recording of Notice on Title of Property Deferring Conveyance of Water Rights.
- a. If a land owner qualifies for a water rights conveyance deferment the following notice shall be signed by the land owner and the City and recorded with the Iron County Recorder on the chain of title to the land owner's property within the annexation boundaries at the time the annexation is approved and recorded:

#### **NOTICE OF WATER CONVEYANCE DEFERMENT**

Notice is hereby given that the below described property was annexed into Cedar City without conveying water rights required by Cedar City

Ordinance 37-32. The current and any subsequent owner is hereby put on notice that this property is deemed wet for purposes of Cedar City Ordinance and will be required upon subdivision or securing a building permit to convey water to Cedar City in an amount sufficient to satisfy the City's existing ordinance at the time of the subdivision or building permit. Because this land has deferred the conveyance of water at the time of annexation it will not be permitted to pay a fee instead of conveying water.

County serial number  
County tax I.D. number  
legal description

Dated this \_\_\_\_ day of \_\_\_\_\_, 200\_.

\_\_\_\_\_  
Property owner

STATE OF UTAH )

:ss.

COUNTY OF IRON )

On this \_\_\_\_ day of \_\_\_\_\_, 200\_, personally appeared before me \_\_\_\_\_, who duly acknowledged to me that he signed the above and foregoing document.

\_\_\_\_\_  
NOTARY PUBLIC

\*\*\*\*\*  
\*\*\*\*\*

Dated this \_\_\_\_ day of \_\_\_\_\_, 200\_.

\_\_\_\_\_  
Mayor

[SEAL]

Attest:

\_\_\_\_\_

Recorder

STATE OF UTAH )

:SS.

COUNTY OF IRON )

This is to certify that on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_, before me, the undersigned, a Notary Public, in and for the State of Utah, duly commissioned and sworn as such, personally appeared Gerald R. Sherratt, known to me to be the Mayor of Cedar City Corporation, and Renon Savage, known to me to be the City Recorder of Cedar City Corporation, and acknowledged to me that he, the said Gerald R. Sherratt, and she, the said Renon Savage, executed the foregoing instrument as a free and voluntary act and deed of said corporation, for the uses and purposes therein, and on oath state that they were authorized to execute said instrument, and that the seal affixed is the corporate seal of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year hereinabove written.

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NOTARY PUBLIC

4. Effect of Amendment on Pending Annexations

- A. All annexations that have filed a petition with the City prior to the effective date of this amendment shall be able to use the provisions of this amendment.
- B. **Subdivision.** If real property has annexed into Cedar City prior to the enactment of this ordinance, then prior to a residential subdivision's final plat approval being granted, the developer or owner shall either deed to the City water rights sufficient to comply with this ordinance, if they are subdividing wet land pursuant to section 32-2(B); or pay to the City the special assessment established by this ordinance, if they are subdividing dry land pursuant to 32-2(c).
- C. **Building Permit.** If real property has been annexed into Cedar City prior to the effective date of this ordinance and is not in a residential platted subdivision, then prior to receiving a building permit the owner shall either deed to the City sufficient water rights to comply with this ordinance, if the property is wet land pursuant to section 32-2(B); or pay the special assessment set by this ordinance, if the land is dry land pursuant to 23-2(c).
  - 1. Nothing in this ordinance shall require deeding of water rights or payment of the special assessment when a building permit is pulled for repair, remodel, or expansion of a building that has been granted a building permit prior to, or after, the effective date of this ordinance.

Section 32-4. Acquisition of water reserve.

- I. Cedar City is an owner of water rights. In providing for culinary, commercial, and industrial uses, the City has been able to determine an appropriate reserve necessary to keep ahead of reasonably foreseeable growth in order to serve the health, safety, and welfare of the Cedar City citizens. This reserve would be water rights that are not being constantly used but would be available for service if necessary. These water rights would be administered pursuant to state law in order to avoid any partial or complete forfeiture. The City has determined the reserve amount necessary to keep ahead of reasonably foreseeable growth to be twenty percent (20%) of the total water rights owned by the City. With the annual Water Report, the City Engineer shall provide information relating to the status of the reserve amount. If at any time the reserve amount of water rights is reached, the City Council shall impose a moratorium on the approval of all annexations, residential platted subdivisions, and building permits not in a residential platted subdivisions until the developer or owner is able to provide, or the City is able to acquire, sufficient water to meet the needs as established by this ordinance.

Section 32-5. Acquisition of excess water rights.

- A. If at any time an owner is required to deed water rights to the City, and if that owner owns more water rights in the Cedar Valley Aquifer than the owner is required to deed to the City, then the City shall request that the owner either sell the excess rights to the City or enter into an agreement with the City giving the City the first right of refusal should the owner decide to sell said water rights in the future.

Section 32-6. Agricultural uses to continue and accounting for water rights.

- A. If any owner is required to deed water rights to Cedar City, and at the time of deeding said rights to the City the owners property is dedicated to production of agriculture, then the City shall accept the water rights and the owner shall be allowed to continue the agricultural use of the water until such time as the property, or portions thereof, are removed from the production of agriculture. If only part of the property is removed from the production of agriculture, then a portion of water rights equal to the acreage removed from the production of agriculture shall be removed from agricultural use.
- B. City staff shall create a tracking system that shall indicate which properties have conveyed water, which properties have deferred water conveyance at the time of annexation pursuant to section 23-3-A-1, which properties have paid fees, and which properties are dedicated to the production of agriculture and using water for agricultural purposes. It is an express purpose of this ordinance that no owner is required to deed water or pay a fee for each parcel of land more than once.
- C. For purposes of this section, "agriculture" or "production of agriculture" shall be defined to include any land use wherein crops, plants, trees, or domestic animals are kept and raised with the primary purpose of resale of the finished product. Under no circumstances shall "agriculture" or "production of

agriculture” include any use or intended use of land that is secondary to the primary residential use of the property, for example the home garden in a residential neighborhood shall not be considered “agriculture” or “production of agriculture”.

Section 32-7. Amount and type of water required – Exception.

A. Amount of water required.

1. If water is deeded at the time of annexation, the property owner will be required to deed 1.2 acre feet of water rights per acre of land annexed into the boundaries of Cedar City.
2. If water is deeded after annexation and at or prior to final residential plat approval, the property owner will be required to deed 1.5 acre feet of water rights per acre of property proposed for a platted residential subdivision. All lots within the subdivision that are one (1) acre in size or greater, including the portion of City streets fronting those lots, shall be assessed pursuant to the standard set forth in paragraph 3 of this section.
3. If water is deeded after annexation, but at or prior to acquiring a building permit not in a residential platted subdivision, the owner will be required to deed a minimum of .80 acre feet of water rights per each 50 gallons per minute of the water meter’s maximum flow rating. The amount of water required for all subdivided residential lots equal to or greater to one (1) acre, including the portion of City streets fronting those lots, shall be pursuant to this provision.

B. Type of water required.

1. As used in this section the following terms shall have the following meaning:
  - a. “sub-surface water rights” shall mean all rights to underground water within aquifers that can physically and legally supply water to Cedar City;
  - b. “class 1 surface rights” shall mean all surface water rights to Coal Creek water adjudicated up to 1870;
  - c. “class 2 surface rights” shall mean all surface water rights to Coal Creek water on which claims were filed from 1870 through 1880;
  - d. “class 3 surface rights” shall mean all surface water rights to Coal Creek water on which claims were made from 1880 through 1890;
  - e. “class 4A surface rights” shall mean all surface water rights to Coal Creek water on which claims were made from 1890 through 1898;

- f. "class 4B surface rights" shall mean all surface water rights to Coal Creek water on which claims were made post 1898.
2. The following classifications of water rights shall be deeded to Cedar City in compliance with this ordinance:
  - a. one third of the required water rights shall be sub-surface water rights;
  - b. one third of the required water rights shall be class 1,2,or 3, surface rights or additional sub-surface water rights;
  - c. one third of the required water rights shall be class 4A or 4B surface rights; class 1,2,or 3 surface rights; or additional sub-surface water rights.
  - d.. if a secondary or supplemental sub-surface water right can be transferred to and used by the City with a primary surface water right then, 50% of the total right shall be credited as a sub-surface water right and 50% of the right credited as a surface water right of the class designated for the primary right.

C. Exception.

1. Open space exception. If at the time of final plat approval, or pulling of a building permit, land is deeded to Cedar City for undeveloped open space, parks and recreation, or placed in a conservation easement that complies with the provisions of Title 57, Chapter 18, Sections 1 through 7, Utah Code Annotated, 1953 as amended, then that acreage is not subject to the requirements of this ordinance that mandate the deeding of water rights or payment of fees. This provision does not apply to annexation as the amount of water required for annexation was adjusted to account for such lands.
2. Public lands exception. If at the time of annexation the annexed property is owned by the Bureau of Land Management or the U.S. Forest Service then that acreage is not subject to the requirements of this ordinance that mandate the deeding of water rights. This exception only applies to annexation and not when the property is platted as a residential subdivision or receives a building permit.
3. Nothing in this ordinance shall require the City to deed water or pay a fee if the City develops land. Furthermore, nothing in this ordinance shall require any person that purchases land from the City, and within the look back period of the purchase develops the land, to deed water to the City. A purchaser of property from the City will have to pay the assessment to the City consistent with this ordinance.
4. A narrow exception is hereby created to allow for the annexation of property

with existing water users that are more than 300 feet from existing City water infrastructure. City staff shall be allowed to permit an exception of up to .45 acre feet for a domestic unit, 4 acre feet per acre of irrigated crop land, or .028 acre feet per animal unit of stock watering. Staff shall be permitted to rely on information from the State of Utah Water Engineer in determining animal units, irrigated crop land, and domestic units. Any party that annexes into the City, deeds water to the City and qualifies for this exception shall be able to lease the determined amount of water for domestic use, crop irrigation, and/or stock watering at a nominal fee until such time as they subdivide or receive a building permit.

**37-32-7 Last amended by Cedar City Ordinance No. 0225-09**

Section 32-8. Establishment of special assessment.

- A. There is established a special assessment that owners may pay instead of deeding water rights to the City as required by this ordinance. The special assessment shall be established by the Cedar City Council and adopted in the form of written Resolution duly authorized and approved by said Council. This special assessment may be amended from time to time also by a resolution of the Cedar City Council. Prior to amending the special assessment the City shall have the surface water rights and sub-surface water rights in the Cedar City area appraised and/or use the best available market information. The council may also, by resolution, add costs for reasonable administrative overhead to this special assessment.

Section 32-9. Effective date.

- A. This ordinance shall become effective immediately upon passage by the Cedar City Council, and being signed by the Mayor.

**(Section 32 adopted 3/06)**

**(Section 32 amended by ordinance number 0227-08-01, Dated February 27, 2008)**

**(Section 32 amended by ordinance number 1203-08, Dated December 15, 20**

CEDAR CITY COUNCIL  
AGENDA ITEMS V-9  
DECISION PAPER

**TO:** Mayor and City Council  
**FROM:** Paul Bittmenn  
**DATE:** May 1, 2014  
**SUBJECT:** consider a resolution establishing procedures for electronic meetings.

**DISCUSSION:**

The open and public meetings act has a provision allowing members of a public body to participate in a meeting via electronic means (see UCA § 52-4-207). The attached resolution would enable participation in a City Council meeting through electronic means.

The first thing the resolution does is establish an anchor location. This is intended to be the physical location where the meeting is being held. The public will be able to come to this location and see and hear the proceedings. The proposed anchor location is that location as published in the City Council's agenda. This was done to facilitate those times where the Council decides to meet somewhere other than the City Council chambers.

When a member participates electronically pursuant to this resolution they are counted as present for all purposes including voting and the determination of the presence of a quorum.

The resolution requires members wanting to participate electronically to give the Recorder as much notice as possible. Staff will need time to include on the agenda that a member will participate via electronic means and to coordinate electronic options. Electronic options may be limited so the availability is first come first served. During the meeting the Mayor will need to adjust a little bit to accommodate the member participating electronically.

**CEDAR CITY RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CEDAR CITY COUNCIL ESTABLISHING PROCEDURES  
RELATED TO ELECTRONIC MEETINGS.**

**WHEREAS**, the Cedar City Council is the City's duly elected governing body and under the provisions of the Utah Open and Public Meetings Act is a public body; and

**WHEREAS**, the members of the Cedar City Council have demanding schedules. While the time pressures on these individuals are extraordinary they are ready, willing, and able to serve. The Council members occasionally may require participation via electronic means; and

**WHEREAS**, pursuant to UCA § 52-4-207 participation during a meeting is permitted if the public body first adopts a resolution regulating electronic participation; and

**WHEREAS**, this resolution is adopted to regulate participation in an electronic meeting pursuant to UCA § 52-4-207.

**NOW THEREFORE, BE IT RESOLVED** by the Cedar City Council that the following shall regulate electronic participation during City Council meetings.

1. Anchor Location. In order to allow for participation from the general public during the City Council's public meetings an anchor location is established. The anchor location will be located within the boundaries of Cedar City and shall be a physical location where the board will meet; will be the location where the record of the meeting and recording of the meeting will take place; those members participating by electronic means will be connected into; and the public will be able to attend and participate in the public portions of the meeting. At all times the anchor location shall be the physical location as published in the City Council's agenda.
2. Public Notice. City staff shall be required to provide public notice of all meetings pursuant to the open and public meetings act. In addition to the public notice, staff shall be required to provide the following notices:
  - A. Notice of an electronic meeting to the City Council members at least 24 hours in advance of the meeting so they may participate in and be counted as present for all purposes, including the determination of the presence of a quorum; and
  - B. A description of what electronic methods members will use to connect to the meeting;
3. Notice to Staff. In order to assure that proper public notice is given and to assure that staff has the electronic facilities to accommodate the City Council members

that are in need of electronic participation; any City Council member that wants to participate through electronic means shall be required to give notice to the City Recorder as far in advance of the meeting as reasonably possible. Staff will include a posting on all agendas indicating the possibility that City Council members may participate via electronic means. Also, staff will make all reasonable efforts to find electronic options to accommodate the needs of the City Council members. The City Council members realize there may be limits to the City's ability to accommodate multiple requests so participation through electronic means is on a first come first served system.

4. Electronic Participation. Staff shall make every reasonable effort to accommodate a City Council member's request to participate via electronic means. The requests shall be on a first come first served basis. If staff is aware that a request cannot be accommodated prior to the commencement of the meeting, staff shall notify the City Council member as soon as reasonably possible. The City shall not be under an obligation to appropriate funds to purchase electronic equipment in order to facilitate electronic participation requests.

During the course of the meeting a City Council member participating electronically shall be included in all aspects of the meeting, including being counted toward a quorum. If there is input from the public the Mayor, or Mayor Pro Tem, shall make reasonable efforts to assure that the City Council member participating electronically can hear the comments; or if participation is via video the member participating electronically can hear and see the input from members of the public.

The Mayor or Mayor Pro Tem shall make reasonable efforts to make sure that the comments and votes of those City Council members participating electronically are recorded by the audio recording and in the minutes.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

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MAILE L. WILSON  
MAYOR

[SEAL]  
ATTEST:

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RENON SAVAGE  
RECORDER

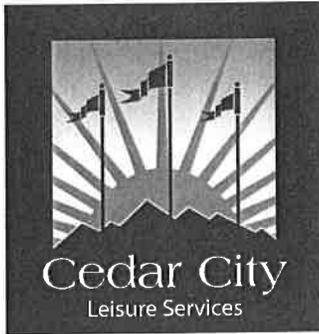


# Cedar City

2090 W. Royal Hunte Dr. • Cedar City, Utah 84720

(435) 865-9223 • Fax (435) 867-6075

[www.cedarcity.org](http://www.cedarcity.org)



To: City Council

From: Dan Rodgerson

Re: Rocky Mountain Incentive

Rocky Mountain Power provides incentives for facilities that make capital changes to minimize energy usage. Utilities is the second highest cost at the Aquatic Center.

The engineering division has researched an option to change the lighting in the pool area of the Aquatic Center from metal halogen to LED lighting. The result would be enhanced lighting and a dramatic reduction in Kilowatt hours. The estimated yearly savings will be \$14,377.00 per year.

The overall cost of the project is \$9,728.00 for labor and \$19,387.00 for materials with a combined cost of \$29,115.00. The lowest bidder was ACM Electric. Rocky Mountain Power has committed to a reimbursement of \$13,593.00 leaving the cost to the city \$15,522.00. **According to Rocky Mountain Power, this cost would be "made-up" in a little more than one fiscal year.**

The aquatic center does not have money to fund the project from another source. On the other hand, the sooner the project is finished, the sooner we will save over \$1,100 per month on utilities.



Let's turn the answers on.  
V 070113.5.3

Viewing The Contracted Stage

wattsmart® Business - Utah

07/01/13 Effective Date

Project ID	UTFX1_002049
Lighting Coordinator	Mark Clary
Lighting Tool Prepared by	Mark Clary

**Customer Information**

Project	Cedar City Aquatic Center
Company	Cedar City Corp
Customer Contact	Bruce Burt

**Total Savings**

	kWh/Year	Avg kW/Month	\$ Savings/Year
Lighting	166,862	40.00	\$14,267
Control	0	0.00	\$0
<b>Total</b>	<b>166,862</b>	<b>40.00</b>	

**Project Costs**

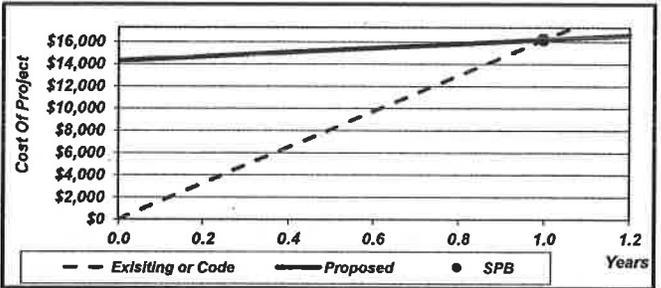
Total Cost	\$27,860	Lighting	\$16,686
<b>Total Incentive</b>		Controls	\$0
49% Of Cost Paid By Incentive		Incentive	\$13,593
<b>Net Project Cost</b>	<b>\$14,267</b>	SPB Cap	

**Project Detail**

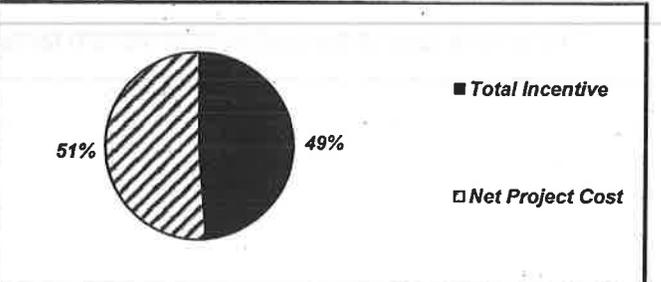
83% Better Than Code LPD			83% Better Than Code Operation Cost/Yr		
Existing	Code	Proposed	Existing	Code	Proposed
1.54	1.10	0.18	\$16,177	\$11,524	\$1,911

Simple Payback (Without Incentive)	2.0 Yrs	Simple Rate Of Return (Without Incentive)	51%
Simple Payback (With Incentive)	1.0 Yrs	Simple Rate Of Return (With Incentive)	100%

**Cost of Lighting Energy Usage Over Time**



**Percent of Initial Project Cost**



The incentive and energy savings above are estimates only. This tool is designed to calculate savings and incentives for wattsmart Business lighting projects. Lighting incentives are capped at 70% of eligible energy efficiency project costs, and the minimum simple payback (with incentive) for the project is one year. If needed, incentives will be decreased to reflect a one-year payback. The simple payback with incentive is the net project cost divided by the annual electric cost savings (dollar savings). To receive an incentive you MUST sign an Incentive Offer before purchasing equipment.

**CEDAR CITY COUNCIL  
AGENDA ITEM   11**

**INFORMATION SHEET**

**TO:** Mayor and City Council

**FROM:** Rick Holman

**DATE:** May 5, 2014

**SUBJECT:** Golf Course barrier

**DISCUSSION:** As you know, the UPDRIP committee has made strides in helping to mitigate some of the impacts of the prairie dog in our area. The most recent was getting an approval for a barrier (fence) on the west and a portion of the south boundary of the Cemetery. Approximately 725 lineal feet of fence is being installed. The materials were a shared purchase from UPDRIP and the Cemetery, approximately \$12,000.

When the fence is completely installed, trapping will be done during July and August. Any remaining dogs may be lethally taken according to US Fish & Wildlife methods.

The Golf Course is the next proposed project. Approximately 10,000 feet of fence is proposed to be installed from the north side of hole 15, along the west boundary of the golf course and along the south boundary to the hill east of hole 4 green. The plan and design have been approved by the US Fish & Wildlife.

The Utah Legislature approved \$100,000 toward this project and Iron County has committed \$30,000 as well. The City is requested to pledge \$30,000 for the project as well. These funds are anticipated to cover the cost of materials, according to the prices for the Cemetery fence. I would propose the City portion come from the Capital Improvement Fund. The materials need to be purchased before June 30 for the legislative funding.

The installation labor is an additional item. The County inmates have been working on installing the fence at the Cemetery. Commission Dave Miller is working on the logistics for the Golf Course. The timing may be a challenge to get the fence installed before this year's trapping season.

