



# Cedar City

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

**Mayor**  
Maile L. Wilson

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

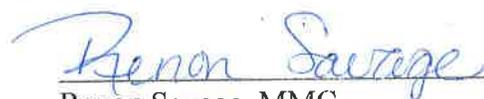
**City Manager**  
Rick Holman

**CITY COUNCIL WORK MEETING**  
**FEBRUARY 18, 2015**  
**5:30 P.M.**

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:

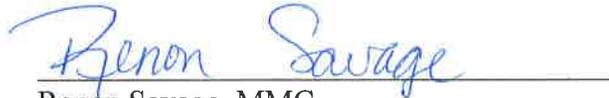
- I. Call to Order
- II. Agenda Order Approval
- III. Administration Agenda
  - Mayor and Council Business
  - Staff Comment
- IV. Public Agenda
  - Public Comments
- V. Business Agenda
  - Public
    1. Consider releasing 10 acre feet of underground water rights from a right of first refusal agreement between Cedar City and the Leonard Bulloch Family Trust - Paul Bittmenn/Gail Davis
    2. Consider sponsorship of Unplugged Cedar City
  - Staff
    3. Consider bids for the 400 North/I-15 Waterline Replacement project – Jonathan Stathis
    4. Paiute Drive issues:
      - a. Road Dedication
      - b. Agreement with Paiute Tribe
      - c. Agreement with LDS Church
      - d. Right-of-Way application
    5. Consider amending the City's Angle Parking Ordinance
    6. Consider a resolution amending the City's event insurance requirements – Paul Bittmenn
    7. Waster Conservancy update – Paul Cozzens

Dated this 17<sup>th</sup> day of February, 2015.

  
\_\_\_\_\_  
Renon Savage, MMC  
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 17<sup>th</sup> day of February, 2015.

A handwritten signature in blue ink that reads "Renon Savage". The signature is written in a cursive style and is positioned above a horizontal line.

Renon Savage, MMC  
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.

CEDAR CITY COUNCIL  
AGENDA ITEMS IV - ( |  
DECISION PAPER

**TO:** Mayor and City Council

**FROM:** Paul Bittmenn

**DATE:** February 16, 2015

**SUBJECT:** Request to release 10 acre feet of water from a first right of refusal agreement.

**DISCUSSION:**

In 2006 the Leonard Bulloch Family Trust, hereinafter referred to as the Trust, was the owner of some property that was part of a requested annexation. Pursuant to the City's water acquisition ordinance the Trust transferred some 96.2480 acre feet of water to Cedar City and signed an agreement giving Cedar City the first right of refusal to purchase the remaining 428.8520 acre feet of water owned by the Trust.

The Trust is in the process of selling some of its property and the prospective purchaser would like to acquire 10 acre feet of water rights to go along with the purchase of the land. The Trust has asked the City to release 10 acre feet of the water rights from the right of first refusal agreement so that they may transfer said rights to the purchaser of the Trust's property.

Mrs. Davis knows the matter is on the agenda and has expressed a desire to attend the Council meeting to answer any questions the Council may have. Attached is a copy of the agreement.

**RIGHT OF FIRST REFUSAL  
TO ACQUIRE WATER RIGHTS**

This Agreement is made and entered into this 29<sup>th</sup> day of June, 2006, by and between Cedar City Corporation, a Utah Municipal Corporation, with its office located at 10 North Main Street, Cedar City, Utah 84720, hereinafter referred to as "CITY"; and the property owner, the Leonard Bulloch Family Trust, whose address of record is 450 East Parkway Drive Cedar City, Utah 84720, hereinafter referred to as "OWNER".

WHEREAS OWNER petitioned CITY to annex 80.29 acres of land as part of an annexation known as the Sevy annexation;

WHEREAS, CITY has passed Cedar City ordinance section 37-32 dealing with acquisition of water rights.

WHEREAS, prior to annexation, owner owned the following rights, shares, and acre feet of water, to wit:

<u>Water rights #</u>	<u>number of shares</u>	<u>acre feet</u>
73-154, 155, 156	N/A	461.45' (sub-surface)
73-154, 155, 156	85	63.75 (Coal Creek class A&B)
<b>Total</b>	<b>85 shares</b>	<b>525.2 acre feet</b>

WHEREAS, pursuant to Cedar City ordinance 37-32, OWNER is required to deed CITY 96.3480 acre feet of water at the time of annexation, and enter an agreement giving CITY a first right of refusal on OWNER's remaining water, 428.8520 acre feet;

WHEREAS, after the dedication of the required 96.3480 acre feet of water OWNER has the following rights, shares, and acre feet of water, to wit:

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 PATSY TUTLER - IRON COUNTY RECORDER  
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 REQUEST: FIRST AMERICAN TITLE/ CEDAR CITY

<u>Water rights #</u>	<u>number of shares</u>	<u>acre feet</u>
73-154, 155, 156	N/A	397.2180 (sub-surface)
73-154, 155, 156	42.1787	31.6340 (Coal Creek class A&B)
<b>Total</b>	<b>42.1787 shares</b>	<b>428.8520 acre feet</b>

WHEREAS, the Leonard Bulloch Family Trust is in the process of distributing its assets, and intends on retaining its water rights either with a family owned corporation, with individuals, or in family trusts to facilitate continued agricultural production. CITY's intent in acquiring this first right of refusal is so that when OWNER wants to sale its shares on the open market, CITY will have the first chance to buy them. By acquiring this first right of refusal, CITY does not intend on interfering with the family's efforts to conduct legitimate estate planing.

NOW THEREFORE, for good and valuable consideration, including the annexation of OWNER's property, the value of which is recognized and receipt of which is acknowledged, the parties hereto stipulate and agree as follows:

**BASIC RIGHT OF FIRST REFUSAL**

1. Should OWNER decide to sell for value the above referenced 428.8520 acre feet of water, the shares, and the water rights to any third party, OWNER shall first offer to sell said rights to CITY for fair market value.

**NOTICE REQUIREMENTS**

2. Prior to OWNER selling the above 428.8520 acre feet of water to a third party for value, OWNER shall give notice and offer CITY the first opportunity to purchase the water rights and shares of stock in the Coal Creek Irrigation company.
3. All notices from OWNER shall be mailed to:

Cedar City Corporation  
c/o the Cedar City Manager  
10 north main street Cedar City, Utah 84720

or any later known and published address for Cedar City hall. All notices shall refer to this contract and specific rights, shares, and acre feet of water. All notices shall contain a price at which OWNER is willing to sell the specified water. The price is subject to the terms and conditions of this agreement. If OWNER fails to send notice with all of the specific items stated herein, OWNER is in material breach of this contract and subject to the penalties herein provided.

**FAIR MARKET VALUE and VERIFICATION**

4. OWNER shall allow CITY to purchase the shares at fair market value. For purposes of this agreement Fair market value shall be determined by one of the following methods, to wit:
  - A. An appraisal, conducted by an appraiser that is licensed in the State of Utah and is in the practice of appraising water rights. The appraisal shall not be more than six (6) months old; or
  - B. A bonafide purchase offer from an independent third party as part of an arms length transaction. In order for an offer to be considered a bonafide purchase offer from an independent third party as part of an arms length transaction, evidence must be provided to CITY that money sufficient complete the proposed purchase has been deposited with a title company, and that the only contingency left prior to the closing of the purchase is a refusal of

CITY to purchase the water rights.

OWNER shall cooperate by providing all reasonable and necessary documentation of the bonafide purchase offer from an independent third party as part of an arms length transaction, or the appraisal.

5. CITY shall either purchase the water rights that OWNER is willing to sell, or release its first right of refusal no later than forty five (45) days from the date when CITY has been able to verify the fair market value of the property.

**TITLE REPORT**

6. Prior to transfer of title pursuant to this agreement, OWNER shall obtain a title report and disclose any lien, trust deed, farm land deed, mortgage, or other encumbrance upon the water rights. If necessary, OWNER shall cause a release to be signed and recorded so that CITY purchases unencumbered title to the water rights.

**RECORDING, FILING, AND LIQUIDATED DAMAGES**

7. This agreement shall run with the OWNER's land currently identified by Iron County Tax I.D. numbers 140969, 413184, 413176 and Iron County Serial Numbers D-0921-0000-0000, D-0922-0000-0003 and D-0922-0000-0002. CITY shall release the agreement from the title of the property once CITY has either acquired the water rights listed above, or refused to purchase said rights. The recording of the agreement shall be done at OWNER's expense, and completed within thirty (30) days after the CITY signs the agreement. Failure to record the agreement shall constitute a material breach of the agreement, and subject

OWNER to a liquidated damage cost of five hundred dollars (\$500.00) per day for each day after the thirty (30) day recording period in which this agreement is not recorded.

8. After OWNER has caused the agreement to be recorded with the Iron County Recorder, OWNER shall, at OWNER's sole cost and responsibility, cause to be recorded a report of water conveyance, with an attached copy of this contract containing a stamp documenting its recording with the County. This report of water conveyance shall be filed with the State of Utah Department of Natural Resources Division of Water Rights, Southwestern regional office located at 585 north main street, Cedar City, Utah (hereinafter referred to as the state water rights engineer). This report of water conveyance shall be recorded no later than thirty (30) days after this agreement is recorded with the Iron County Recorder. Failure to record the report of water rights conveyance shall constitute a breach of this agreement and subject OWNER to liquidated damages in the sum and amount of five hundred dollars (\$500.00) per day for each day the report is not filed after the thirty (30) day filing period.
9. The purpose of recording the agreement with the Iron County Recorder and the water rights conveyance with the state water rights engineer is to create a record of this agreement, and give notice to potential third party purchasers. Failure to record with the Iron County Recorder or file with the state water rights engineer shall breach the agreement only to the extent that OWNER shall have to pay the liquidated damages listed above to CITY. Both parties agree that the amount of

liquidated damages are necessary and reasonable. Failure to record with the Iron County Recorder or file with the state water rights engineer shall not relieve OWNER of his or her obligation to honor the CITY's first right of refusal contained in this agreement, nor shall said failure void any of the other remedies contained in this agreement.

10. Upon recording with the Iron County Recorder, and filing with the state water rights engineer, OWNER, shall provide written proof of recording and filing to CITY.

**PERSONAL OBLIGATION**

11. In addition to being an encumbrance upon the land as listed above, this agreement is a personal obligation of OWNER, should OWNER fail to comply with this agreement, CITY shall have the right to enforce this agreement against the land and/or OWNER at CITY's sole discretion.

**DURATION**

12. This agreement shall last until its purpose is fulfilled.

**INTEGRATION CLAUSE**

13. This agreement constitutes the entire agreement between the parties and expressly revokes any oral or written understandings that are not contained herein.

**SEVERABILITY CLAUSE**

14. Should any portion of this agreement be declared unconstitutional or otherwise unenforceable by a court of competent jurisdiction, that portion of the contract shall be severed from the remainder, and the remainder shall be given its

maximum legal effect.

**AMENDMENTS AND RELEASES**

15. Any amendments to this agreement shall not be affective unless reduced to writing, signed by both parties, recorded with the Iron County Recorder as an amendment to this agreement, and filed as an amendment to the report of water rights conveyance with the state water rights engineer's office. The expense and responsibility of recording and filing shall be with the party that requests the amendment.

**PENALTIES**

16. Should OWNER sell, transfer, gift, or otherwise dispose of the legal or equitable ownership of the water rights contained in this agreement without giving CITY notice and an opportunity to exercise its option, CITY shall be able to pursue all legal and equitable remedies available including, but not limited to the following, to wit:
  - A. City shall have the right to seek an injunction to stop the proposed sale, transfer, gift, or disposition of the water rights. OWNER shall pay CITY all costs incurred by CITY as a result of CITY having to seek an injunction, including but not limited to attorney fees, and;
  - B. OWNER shall pay to CITY a fee in the sum and amount equal to twice the value of the acre feet, shares, or rights sold, deeded, gifted, or transferred. Value shall be determined by the greater of

the actual dollar amount received by GRANTOR, or the full special assessment as set forth in Cedar City Ordinance 37-32-8, or as from time to time amended by a resolution of the Cedar City Council.

**JURISDICTION AND VENUE**

17. Both parties stipulate that jurisdiction to enforce this contract is limited to the District Courts in and for the State of Utah. Both parties stipulate that venue is only proper in the 5<sup>th</sup> Judicial District Court in and for Iron County, State of Utah.

**TRANSFERABILITY**

18. OWNER shall not transfer, sell, lease, or otherwise dispose of its rights or responsibilities under this agreement without the express written consent of CITY. CITY shall not transfer, sell, lease, or otherwise dispose of its rights or responsibilities under this agreement without the express written consent of OWNER.

**AUTHORITY TO BE BOUND**

19. Both OWNER and CITY stipulate and agree that the persons signing this agreement have full authority to do so and do hereby bind the parties to the terms contained herein. All procedures and/or prerequisites necessary to give authority to bind the parties to this agreement have been followed and completed.

**HEADINGS**

20. The headings contained within this agreement are only for convenience and shall not result in any rights or duties being imposed upon or assumed by either of the

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parties.

DUPLICATE COPIES

21. The parties shall execute three (3) original copies of this agreement. One copy shall be retained by OWNER, one copy retained by CITY, and one copy shall be recorded with the Iron County Recorder and filed with the state water rights engineer.

DATED this 29<sup>th</sup> day of June, 2006.

CITY:

G. R. Sherratt  
GERALD R. SHERRATT, MAYOR



ATTEST:

Bonnie Moritz  
BONNIE MORITZ, CITY RECORDER

STATE OF UTAH    )  
                          :SS,

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**CEDAR CITY  
CITY COUNCIL AGENDA ITEM 3  
STAFF INFORMATION SHEET**

**To:** Mayor and City Council  
**From:** Jonathan Stathis  
**Council Meeting Date:** February 18, 2015  
**Subject:** **Consider bids for the 400 North/I-15 Waterline Replacement project.**

**Discussion:** This project involves the repair of an existing waterline on 400 North Street where it crosses underneath I-15 between Brook Street and 1400 West.

Cedar City Corporation received four (4) bids for this project. The low bidder for the project is Insituform Technologies. Insituform has a manufacturing plant located here in Cedar City.

The following table shows a summary of the bids that were received:

Bid Summary

Name of Contractor	Bid Amount
<b>Insituform Technologies, LLC</b>	<b>\$141,288.00</b>
Precision Pipeline, Inc.	\$172,436.25
Valley Underground, Inc.	\$178,453.00
Terry R. Brotherson Excavating, Inc.	\$196,891.59

Insituform's bid is to install a cured-in-place pipe (CIPP) liner inside the existing waterline. A 5-year warranty is required for the CIPP liner option. The other three bids were to bore a new steel casing with ductile iron pipe under I-15. The low bid is within the budgeted amount.

If this bid is awarded it would be on the condition that the Contractor provide the required executed bonding, insurance documents, immigration status verification, and that the Mayor be authorized to sign the contract with the Contractor.

The following table provides a summary of the proposed budget for this project:

**Project Funding**  
**400 North/I-15 Waterline Replacement Project**  
**(Account #51-40-731)**

	<u>Funding</u>	<u>Expenses</u>	<u>Balance</u>
<u>Funding approved in FY15 –</u>			
Acct. #51-40-731 (Water Line Replacement)	\$202,899		
 <u>Expenses –</u>			
Construction Contract		(\$141,288)	
Materials Testing		(\$1,413)	
Engineering/Misc./Contingency		(\$28,258)	
 Totals –	 <b>\$202,899</b>	 <b>(\$170,959)</b>	 <b>\$31,940</b>

CEDAR CITY COUNCIL  
AGENDA ITEMS IV - 4  
DECISION PAPER

**TO:** Mayor and City Council  
**FROM:** Paul Bittmenn  
**DATE:** February 16, 2015  
**SUBJECT:** Paiute Drive right of way improvements.

**DISCUSSION:**

The Paiute Tribe has received various grants to pay for improvements to the road and right of way along sections of Paiute Drive. As part of this project the right of way is going to be dedicated for public use. The owners of the property impacted by this dedication are Cedar City (hereinafter referred to as the City), the Paiute Tribe of Utah (hereinafter referred to as the Tribe), and the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints (hereinafter referred to as the Church). In order to facilitate the entire transaction the Council is being asked to do four things: (1) approve a road dedication; (2) approve a contract between the Tribe and the City; (3) approve a contract between the Church and the City; and (4) approve the right of way application with the United States Department of the Interior Bureau of Indian Affairs (hereinafter referred to as BIA).

1. The Road Dedication.

Attached as exhibit #1 is a map showing the road dedication from the City, the Tribe, and the Church. Once the road dedication is approved the right of way will be dedicated to public and after the Tribe completes the construction of the improvements the City will manage the completed right of way. Please look at exhibit #1 parcels A - E are going to be dedicated by the Tribe as an easement, Parcel F is going to be quit claimed to the City by the LDS Church. The sum total of area in parcels A - E +/- 0.0643 acres of land to be dedicated by the Tribe. Parcel F consists of +/- 0.02 acres. The rest of the +/- 1.98 acres of the land involved in the road dedication belong to the City and roughly lie in the area currently being used as Paiute Drive. As you will see later there are a couple of contracts that have to be entered into and the transfer of the easement or quit claim deed for the right of way property may be contingent on the completion of the improvements by the Tribe.

The Planning Commission has given this project a positive recommendation. Please consider approval of the road dedication subject to completion of the improvements. This will provide staff the opportunity to gather all of the easements and quit claim deeds and have them recorded prior to the road dedication.

2. The Contract between the Tribe and the City.

Attached as exhibit #2 is an agreement between the Tribe and the City. The Tribe has all of the funding for the project. The Tribe has already lined up a contractor and have completed the necessary Civil Engineering. The improvements will be constructed to the City's engineering standards. The agreement between the Tribe and the City recognizes that the Tribe will be paying for all of the improvements as well as constructing them to the City's standards. It allows for the City to inspect the project and after the one (1) year warranty period has lapsed and all warranty work is done the City will take over ownership of and responsibility for the improvements. The agreement also recognizes some of the conditions in the Church's agreement with the City related to no work on Sunday, leaving access to the Church property, etc...

Section 4.8 of the agreement between the Tribe and the City contains the City's requirements after the warranty period has lapsed and warranty work has been completed. These requirements come from the Code of Federal Regulations and are required when gaining a right of way through tribal lands. Section 4.10 is a section adapted from the Code of Federal Regulations it talks about what the City's requirements are if the right of way is abandoned. The Code of Federal Regulations are more stringent than some of the requirements in this agreement. For example there are code provisions granting the BIA sole discretion over how some problems are resolved and also provisions requiring full restoration of the property to its pre-improvement condition if the City abandons the right of way. In light of the fact that the Tribe instituted the project, is funding the improvements, hiring the contractor, and is responsible for the work the BIA has agreed to vary the provisions of the Code of Federal Regulations as set forth in the agreement.

Please consider approving the agreement.

### 3. The Contract between the Church and the City.

Attached as exhibit #3 is an agreement between the Church and the City. This agreement covers that +/- 0.02 acres of land the Church is contributing to the project. It is between the Church and the City holding the City responsible for the improvements. In turn the agreement between the City and the Tribe holds the Tribe responsible for the construction and warranty phase of the improvements and the City will take over ownership and maintenance responsibility once the one year warranty period has lapsed and all warranty work is completed.

The Church will give the Tribe's contractors, through the City, a license to work on the Church's property. There are some limitations to this license such as no working on Sunday and making sure not to cut off access to the Church's property. Also the Church reserves the ability to select the location of the driveway and some curb cuts that will access its property. Once the construction is completed the Church will quit claim the necessary property to the City.

There are some notices in the agreement with the Church that the Church wants done in writing and at specific points of the project. These are terms staff needs to be aware of and are items staff can manage.

Please consider approving the agreement between the Church and the City.

4. Right of Way Application with the BIA.

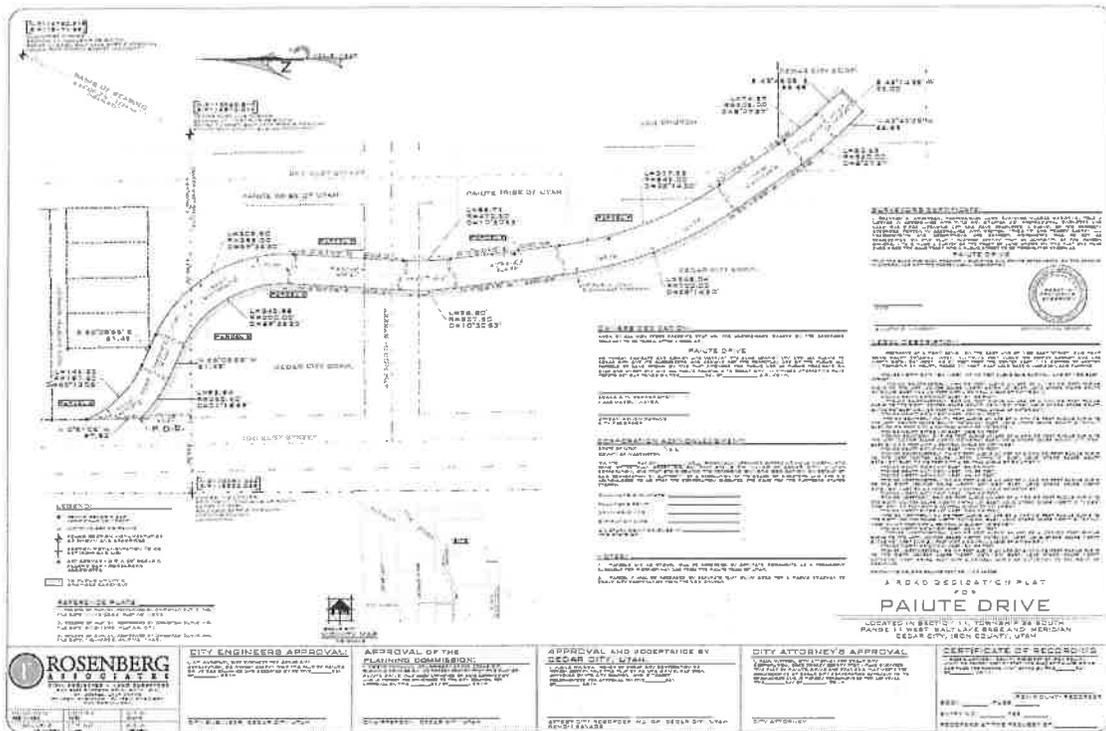
Attached as exhibit #4 is the right or way application with the BIA. The BIA has national standards contained in the code of federal regulations regulating rights of way across tribal lands. Even though the project was initiated by the Tribe, is funded by the tribe, and the construction is under the control of the tribe, the City is required by BIA to submit the application for right of way.

This application has provisions that mirror section 4.8 of the agreement between the Tribe and the City. Some of these provisions are slightly different from the typical right of way application. This is due to the Tribe being the entity funding and responsible for construction of the improvements.

Please consider approval of the right of way application.

This is a complicated transaction. Please let me know if you have any questions.

# Exhibit #1



# Exhibit #2

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**MEMORANDUM OF AGREEMENT BETWEEN  
THE PAIUTE INDIAN TRIBE OF UTAH  
AND  
CEDAR CITY  
FOR THE NORTH PAIUTE DRIVE IMPROVEMENT PROJECT  
AND ASSOCIATED RIGHT-OF-WAY OVER TRIBAL LAND**

THIS “MEMORANDUM OF AGREEMENT BETWEEN THE PAIUTE INDIAN TRIBE OF UTAH AND CEDAR CITY FOR THE NORTH PAIUTE DRIVE IMPROVEMENT PROJECT AND ASSOCIATED RIGHT-OF-WAY OVER TRIBAL LAND” (this “**Agreement**”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2015 by and between the Paiute Indian Tribe of Utah, a federally recognized Indian tribe whose address is 440 North Paiute Drive, Cedar City, UT 84721 (“**PITU**” or “**Tribe**”), and the Cedar City, a municipal corporation of the State of Utah whose address is 10 N. Main Street, Cedar City, UT 84720 (“**Cedar City**,” and together with PITU, the “**Parties**”).

RECITALS

A. The Parties wish to enter into this Agreement for the purpose of establishing the terms and conditions for certain public improvements to North Paiute Drive in order to enhance the safety of motorists and pedestrians and to otherwise improve North Paiute Drive for the benefit of the Tribe and Cedar City, and their residents (hereinafter “**North Paiute Drive Improvement Project**”). The North Paiute Drive Improvement Project is more particularly described on Exhibit A, attached hereto and incorporated herein by this reference.

B. North Paiute Drive, as it currently exists, is entirely within the boundaries of land held by Cedar City.

C. North Paiute Drive is adjacent to the Tribe’s Reservation and provides access to the Tribe’s administrative complex; the Cedar City Paiute Medical Clinic, which is a tribally-owned medical clinic operated by the Tribe’s Health Department; Suh’Dutsing Technologies, which is a tribal corporation owned and operated by the Cedar Band of Paiutes, a constituent Band of the PITU; and tribal housing units, as well as other sites. The North Paiute Drive Improvement Project therefore will be of significant benefit to the Tribe and its members.

D. PITU has applied for and received funding from the Bureau of Indian Affairs (the “**BIA**”) to design and construct the North Paiute Drive Improvement Project.

E. The North Paiute Drive Improvement Project will be designed and constructed by PITU under the auspices of Cedar City, and in accordance with Cedar City engineering standards.

F. The installation and construction of the North Paiute Drive Improvement Project will include a one-year warranty from PITU covering workmanship and defects. Once the warranty period has passed, any defects are cured, and Cedar City accepts the improvements, Cedar City shall have maintenance responsibility for North Paiute Drive.

G. The North Paiute Drive Improvement Project includes realignment of North Paiute Drive, which will require the granting of an easement for a right-of-way to Cedar City over five (5) small parcels of land that are held in trust by the United States for the Tribe, shown and described in the supporting documentation to the BIA right-of-way application, attached hereto as Exhibit B and incorporated herein by this reference. Cedar City wishes to apply to BIA for a right-of-way across tribal land for the North Paiute Drive Improvement Project, and PITU consents to such right-of-way, pursuant to the terms and conditions of this Agreement.

### TERMS AND CONDITIONS

NOW THEREFORE, in consideration of the mutual benefits to be derived from the North Paiute Drive Improvement Project and the mutual promises made herein, PITU and Cedar City do hereby agree as follows:

1. Recitals. The above Recitals are true, correct and form a material part of this Agreement, and are hereby incorporated by reference and made a part hereof.

2. Representations of Cedar City.

2.1. Cedar City is a municipal corporation vested with general land use authority, including over its streets, pursuant to the Utah Municipal Land Use, Development, and Management Act, Utah Code § 10-9a-101, et seq.

2.2. Utah Code § 10-9a-102(2) authorizes Cedar City to enter into agreements that it considers necessary or appropriate for the use and development of land, including streets, within the municipality.

3. Representations of PITU.

3.1. Pursuant to Article V, Section 1 of the PITU Constitution, the Tribal Council has the authority to represent the Tribe and act in all matters that concern the welfare of the Tribe, including negotiating agreements with local governments.

3.2. Pursuant to Tribal Council Resolution No. 2013-27, the Tribal Council has authorized its Tribal Chairperson to enter into this Agreement.

3.3. As a federally recognized Indian tribe, the PITU is authorized to enter into contracts under P.L. 93-638, including with the BIA, to provide labor, materials, equipment, and services necessary to complete road construction projects and to provide construction monitoring on said projects.

3.4. PITU has applied for and received funding from the BIA for the North Paiute Drive Improvement Project pursuant to the Tribe's P.L. 93-638 contracts, including PS&E, Construction and Construction Monitoring of Road Construction Projects CTH69T6222 – H6939100 – PTU

301(1), CTH69T69224 – H696100 – KAIR Chip Seal No. 1, and CTH69T69226 – ARRA CCIC Safety #1.

4. Right-of-Way Across Tribal Lands.

4.1. Cedar City shall apply to the Bureau of Indian Affairs for a right-of-way over land held in trust by the United States of America for the Paiute Indian Tribe of Utah (the “**North Paiute Drive Right-of-Way**”). The right-of-way application is attached hereto as Exhibit B, and incorporated herein by this reference.

4.2. Except as otherwise provided in this Agreement and/or Exhibit B, Cedar City agrees to comply with all applicable federal law and regulations for the granting of rights-of-way over Indian lands, including the regulations at 25 CFR Part 169.

4.3. Pursuant to Tribal Council Resolution No. 2013-27, and in accordance with 25 CFR § 169.3, PITU has consented to the North Paiute Drive Right-of-Way, and agrees to support Cedar City in the application for and acquisition of the North Paiute Drive Right-of-Way.

4.4. The Parties agree that a survey for the North Paiute Drive Right-of-Way, as described in 25 CFR § 169.4, is not necessary because the Tribe has already contracted for design of the North Paiute Drive Improvement Project, including survey of the right-of-way. Cedar City therefore shall not be required to make the deposit described in 25 CFR §§ 169.4 and 169.5.

4.5. Pursuant to 25 CFR § 169.12, PITU waives its right to receive an appraisal and compensation for the North Paiute Drive Right-of-Way, in light of the significant benefit to the Tribe and its members associated with the North Paiute Drive Improvement Project.

4.6. Cedar City shall not be required to pay any damages incident to the survey of the North Paiute Drive Right-of-Way, or incident to PITU’s construction of the North Paiute Drive Improvement Project, including in the North Paiute Drive Right-of-Way. PITU expressly waives its right to such damages, and to a deposit for such damages, as described in 25 CFR §§ 169.13 and 169.14. Cedar City also shall not be required to pay any damages during the one-year warranty period.

4.7. Cedar City shall have no indemnification obligation to PITU during PITU’s construction of the North Paiute Drive Improvement Project and during the one-year warranty period thereafter; nor shall Cedar City be obligated to pay any damages associated with the North Paiute Drive Right-of-Way during this period.

4.8. Obligations of Cedar City Once the Year Warranty Period Has Passed. The following duties and obligations of Cedar City shall apply only after the one-year warranty period has passed, any defects are cured, and Cedar City accepts the improvements:

4.8.1. Cedar City agrees to pay damages and compensation due to the Tribe, the United States and authorized users and occupants of the land resulting from Cedar City's ongoing maintenance and use of the North Paiute Drive Right-of-Way.

4.8.2. Cedar City agrees to indemnify PITU, the United States, and/or authorized users and occupants of the North Paiute Drive Right-of-Way against any liability for loss of life, personal injury and property damage arising from the construction, maintenance, occupancy or use of the lands by Cedar City, its employees, contractors and their employees, or subcontractors and their employees.

4.8.3. Cedar City shall maintain, and construct any future improvements to, the North Paiute Drive Right-of-Way in a workmanlike manner.

4.8.4. Cedar City shall clear and keep clear the lands within the North Paiute Drive Right-of-Way to the extent compatible with the purpose of the right-of-way; and dispose of all vegetative and other material cut, uprooted or otherwise accumulated during maintenance of the right-of-way, including future construction of improvements to the North Paiute Drive Right-of-Way by Cedar City.

4.8.5. Cedar City shall take soil and resources conservation protection measures, including weed control, on the land covered by the North Paiute Drive Right-of-Way.

4.8.6. Cedar City shall do everything reasonable within its power to prevent and suppress fires on or near the lands to be occupied under the North Paiute Drive Right-of-Way.

4.8.7. Cedar City shall build and repair such roads, fences and trails as may be destroyed or injured by Cedar City's construction or maintenance of the North Paiute Drive Right-of-Way and shall build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated by Cedar City under the North Paiute Drive Right-of-Way.

4.8.8. In the event that archaeological or historical remains, burials, cultural artifacts, or other antiquities not previously reported are encountered during the course of construction or any other activities associated with this Agreement, all activity in the immediate vicinity of the remains or artifacts shall cease and the BIA approving official shall be contacted to determine disposition.

4.8.9. Cedar City shall not interfere with the use of the lands by or under the authority of the landowners for any purpose not inconsistent with the primary purpose for which the North Paiute Drive Right-of-Way is granted.

4.9. Affidavit of Completion. Upon completion of the construction of the North Paiute Drive Improvement Project, and the North Paiute Drive Right-of-Way, Cedar City agrees to promptly file with the Secretary of the United States Department of the Interior an affidavit of

completion, in duplicate, executed by the City Engineer and certified by Cedar City, in compliance with 25 CFR §169.16. PITU will assist Cedar City with the affidavit of completion as needed.

4.10. Obligations of Cedar City Upon Revocation or Termination of the North Paiute Drive Right-of-Way. Upon revocation or termination of the North Paiute Drive Right-of-Way, Cedar City may abandon the right-of-way, or may restore the land to its original condition. PITU expressly waives any right to require Cedar City to restore the North Paiute Drive Right-of-Way to its original condition, or to bear expenses and costs incurred by PITU and/or the United States in accomplishing said restoration, as a condition of the right-of-way application pursuant to 25 CFR § 169.5(i).

5. Construction of North Paiute Drive Improvement Project.

5.1. PITU agrees to use funds provided to the PITU from the BIA under the Tribe's P.L. 93-638 contracts to design and construct the North Paiute Drive Improvement Project.

5.2. The North Paiute Drive Improvement Project shall be designed and constructed by the PITU in a workmanlike manner, under the direction of Cedar City, and in accordance with Cedar City engineering standards and other applicable laws, rules, regulations and specifications set forth by Cedar City.

5.3. PITU shall notify Cedar City Engineering Department of the construction schedule for the North Paiute Drive Improvement Project at least thirty (30) days prior to the commencement of construction and work with the Cedar City Engineering Department to coordinate necessary inspections.

5.4. The installation and construction of the North Paiute Drive Improvement Project shall include a one-year warranty from PITU covering workmanship and defects. Once the warranty period has passed, any defects are cured, and Cedar City accepts the improvements, Cedar City shall assume maintenance responsibility for North Paiute Drive. PITU shall have no maintenance, or other, obligation with respect to North Paiute Drive after the one-year warranty period.

5.5. Upon completion of the North Paiute Drive Improvement Project PITU shall direct its consulting engineer to provide Cedar City with complete as built drawings in either pdf or AutoCad and one set of drawings on a 24"x36" mylar.

5.6. CPB Property. PITU expressly acknowledges that Cedar City has entered into a License and Conveyance Agreement with the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints, a Utah corporation sole ("**CPB**") concerning certain property owned by CPB that will be impacted by the North Paiute Drive Improvement Project ("**CPB Property**"). The License and Conveyance Agreement between CPB and Cedar City is hereinafter referred to as the "**CPB Agreement.**" PITU is not a party to the CPB Agreement. However, PITU expressly agrees to the following with respect to the CPB Properties.

5.6.1. PITU shall coordinate with Cedar City regarding the CPB Property during installation and construction of the North Paiute Drive Improvement Project.

5.6.2. PITU shall comply with the restrictions on access to the CPB Property described in paragraph 1.3.2 of the CPB Agreement.

5.6.3. PITU shall construct and install the improvements to the CPB Properties described in paragraph 2.1 of the CPB Agreement.

5.6.4. PITU shall not allow any construction debris, fill dirt, or trash to be placed on the CPB Properties in connection with the construction activities for the North Paiute Drive Improvement Project. PITU agrees that upon completion of the North Paiute Drive Improvement Project, PITU will leave the CPB Properties in as good or better condition as existed prior to the North Paiute Drive Improvement Project.

5.6.5. Upon completion of the North Paiute Drive Improvement Project, PITU shall provide evidence to Cedar City that there are no outstanding invoices or payments due, and that there are no outstanding liens so that Cedar City can provide the necessary "City Improvement Verification Materials" to CPB, as described in paragraph 2.4 of the CPB Agreement.

6. Agreement Contingency. The Parties expressly acknowledge that entities who are not a party to this Agreement, including the BIA, must be consulted and may have approval rights. The Parties agree that both will use their best efforts to secure the necessary approvals or consents. In the event approval or consent cannot be obtained, either party may cancel this Agreement by written notification to the other Party, rendering it unenforceable and null and void.

7. Notices. Unless otherwise agreed by the Parties in writing, all notices, requests, demands and other communications between the Parties pursuant to this Agreement shall be sent by certified mail, return receipt requested, to:

PAIUTE INDIAN TRIBE OF UTAH  
Attn: Gayle Rollo, Tribal Administrator  
440 North Paiute Drive  
Cedar City, Utah 84721

CEDAR CITY  
10 N. Main Street  
Cedar City, Utah 84720

**PITU:**

PAIUTE INDIAN TRIBE OF UTAH,  
a federally recognized Indian tribe

By: \_\_\_\_\_

**Cedar City:**

CEDAR CITY,  
a municipal corporation of Utah

By: \_\_\_\_\_

Gari Lafferty, Tribal Chairwoman

Maile L. Wilson, Mayor

[SEAL]  
ATTEST:

---

Renon Savage, Recorder

# Exhibit #3

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## LICENSE AND CONVEYANCE AGREEMENT

(PN: 508-7236)

THIS LICENSE AND CONVEYANCE AGREEMENT (this "**Agreement**") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_ 2014 (the "**Effective Date**") by and between CEDAR CITY, a municipal corporation of Utah (the "**City**"), and CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole ("**CPB**," and together with the City, the "**Parties**").

### RECITALS

A. CPB owns certain property (the "**Property**") consisting of approximately Four and Twenty-Five Hundredth (4.25) acres located in Cedar City, Iron County, Utah, more particularly described on Exhibit A, attached hereto and incorporated herein by this reference.

B. The CPB Property includes a subparcel (the "**Quitclaim Parcel**," and together with the CPB Property, the "**Properties**") consisting of approximately Two Hundredth (0.02) acres as more particularly described on Exhibit B, attached hereto and incorporated herein by this reference.

C. The CPB's interest in the Quitclaim Parcel is to be transferred to City and certain defined City Improvements as set forth in this agreement are to be constructed by the Paiute Indian Tribe of Utah (the "**PITU**") pursuant to a separate agreement between the City and PITU, under the direction of the City, and in accordance with City engineering standards. The installation of the public improvements will include a one-year warranty from PITU covering workmanship and defects. Once the warranty period has passed, defects cured, and the City accepts the improvements, the City shall have maintenance responsibility for said improvements.

D. Subject to the terms and conditions of this Agreement, the City wishes to acquire the Quitclaim Parcel in exchange for its mutual contribution to the installation of the aforesaid improvements as more fully set forth below in exchange for the conveyance of the Quitclaim Parcel and CPB is willing to convey to the City the Quitclaim Parcel in exchange for its mutual contribution to and upon completion of the installation of the foregoing City Improvements.

### TERMS AND CONDITIONS

NOW THEREFORE, the Parties, in consideration of the mutual covenants, terms and conditions set forth below, the sufficiency of which is hereby acknowledged, agree as follows:

1. License.

1.1. Grant of License. CPB hereby grants (without warranty) to the City, its employees, consultants, agents, contractors, and subcontractors (collectively, its "**Agents**") a license and right to enter the Properties (the "**License**") for the purpose of installing the City Improvements, as defined and more fully set forth below in Section 2.

1.2. Term. The term of this License will terminate upon satisfactory installation of the City Improvements; provided, however, the City shall continue to have a license and right to enter the Properties following completion of the City Improvements for the sole purpose of maintaining the City Improvements. Notwithstanding anything to the contrary

stated herein, the License will automatically terminate eighteen (18) months from the Effective Date.

1.3. Access.

1.3.1. Access. The City and its Agents shall have the right to reasonably enter upon the Properties for the purpose permitted by this Agreement. The City shall enter upon the Properties at its sole risk and hazard, and the City and its successors and assigns, hereby release CPB and any and all of CPB's affiliates, members, partners, officers, directors, employees, agents, representatives, and independent contractors (the "**CPB Affiliates**") from any cost, claim, damage, liability, or obligation relating to (i) the entry upon the Properties by the City and the City's Agents and (ii) the condition of the Properties pertaining to the City and the City's Agents entry thereon.

1.3.2. Restrictions on Access. The City and its Agents shall avoid inconvenience or disruption to CPB and its members and visitors using the Properties ("**CPB Visitors**"), neighbors of the Properties, and the general public. Without limiting the generality of the foregoing, the City and its Agents will: (a) not perform work on the Properties on Sundays; (b) ensure that the access of the CPB Visitors to the Properties, and its parking lot are unobstructed; (c) perform their work according to a schedule designed to minimize inconvenience and communicated to and coordinated with in advance to CPB and the local leaders of The Church of Jesus Christ of Latter-day Saints. Coordination and Communication regarding scheduling should be addressed to: Corporation of the Presiding Bishop of The Church of Jesus Christ of Latter-day Saints; Attn: Eric Schenk; 50 East North Temple Street, Salt Lake City, UT 84150-0012; Office: 801-240-3086; E-mail: egs@ldschurch.org.

1.4. Condition of the Properties; Release of CPB. As it relates to the License, the City accepts the Properties and all respects thereof in "AS IS," "WHERE IS" condition, without warranties, either express or implied, "WITH ALL FAULTS," including but not limited to both latent and patent defects, and the existence of hazardous substances, if any. The City hereby waives all warranties, express or implied, regarding the title, condition and use of the Properties as it relates to the License, including, but not limited to any warranty of merchantability or fitness for a particular purpose. The City shall obtain any and all consents, approvals, permissions, and agreements to access the Properties, to maintain the City Improvements thereon, and to access, encumber or encroach upon any rights of other related to its use and improvements of the Properties.

1.5. Reservation. This Agreement is non-exclusive and CPB, its successors and assigns, reserve and retain the right to use the Properties in any manner whatsoever.

2. Improvements.

2.1. Improvements. The City shall manage and oversee, in accordance with the terms and conditions of that certain agreement between the City and PITU, the following: (i) the installation of an access point/drive isle for vehicular ingress and egress connecting the road commonly known as Paiute Drive (210 East Street), which runs along the west border of the Properties (the "**Road**"), to the existing parking lot on the CPB Property, in a location at width as determined by CPB in its reasonable discretion; (ii) the installation of fire hydrants, if any, as may be required by, the City, or other governmental authorities or agencies whichever

shall apply (the governmental entity or entities having authority or jurisdiction to approve specific matters set forth in this Agreement shall hereinafter be referred to as the "**Governmental Entity**"), and curbs, curb cuts, gutters, and culverts along the Road, including curb cuts at locations agreed to by CPB providing access to the CPB Property; and (iii) the relocation of the existing fence that runs along the western boundary of the CPB Property to a location reasonably determined by CPB (collectively, the "**City Improvements**").

2.2. CPB Improvements. Following satisfactory construction and installation of the City Improvements, CPB shall, at its sole cost and expense, construct and install along the western boundary of the Properties a sidewalk that runs along the Road and abuts the curb, curb cuts, gutters, and related appurtenances that are part of the City Improvements installed by PITU (the "**CPB Improvements**," together with the City Improvements, the "**Improvements**").

2.3. Standard of Quality. All Improvements will be designed, constructed, installed and performed in a workmanlike manner and in accordance with all laws, rules, regulations and specifications set forth by the Governmental Entity. The City Improvements shall be warranted by the City against defects in materials or workmanship for a period of one (1) year from the date of completion. The City and its Agents will not allow any construction debris, fill dirt or trash to be placed on the Properties in connection with their construction activities. Upon completion of the performance of the City Improvements described herein, the City will leave the Properties in as good or better condition as existed prior to said work.

2.4. Completion. Upon completion of the City Improvements, the City will: (i) present to CPB a letter from the City's or the City's Agent's engineer stating that all work and the City Improvements have been installed and completed pursuant to the terms and conditions of this Agreement; (ii) present to CPB a letter from the applicable Governmental Entity stating that all of the City Improvements that have been completed and are in compliance with applicable local building codes, if the Governmental Entity is willing to issue such letter, and if not, correspondence from the Governmental Entity stating that it will not issue such a letter; and (iii) present to CPB evidence that the City or its Agents have paid all invoices and payments due with final lien waiver documentation in connection the City Improvements (items (i), (ii) and (iii), collectively, the "**City Improvement Verification Materials**").

The City Improvement Verification Materials shall be deemed conclusive in confirming that the City Improvements have been constructed substantially in compliance with the terms and conditions of this Agreement and that there are no outstanding liens or the basis for any lien claims. CPB shall have ten (10) business days following receipt of the Public Improvement Verification Materials (the "**Claim Notice Period**") to notify the City that it has objections to the City Improvement Verification Materials (the "**Claim Notice**"). CPB shall be entitled to file such Claim Notice only if it believes, based on its reasonable knowledge, that the City Improvement Verification Materials contain errors or omissions or the City Improvements otherwise do not comply with the terms of this Agreement, and the Claim Notice shall describe such errors or omissions with particularity.

2.5. No Claim Notice. If CPB fails to provide the City with a Claim Notice within the time period provided, the City Improvements shall be deemed satisfactorily completed and the conditions set forth in Section 3 shall be met.

2.6. Mediation. If CPB delivers a Claim Notice to the City, and the Parties are unable to resolve their dispute within thirty (30) days following the City's delivery of the Claim Notice, the Parties shall meet with a mediator in an effort to mediate their dispute. If the Parties cannot agree on a mediator for this purpose, as a pre-condition to formal arbitration,

either party may submit the dispute to mediation in accordance with the rules of the American Arbitration Association (“AAA”). Submission of the dispute to arbitration shall be stayed for a period of thirty (30) days following the commencement of mediation, either with an agreed mediator or with a mediator appointed by the American Arbitration Association. The mediation shall be held in the City of Salt Lake, Utah.

2.7. Arbitration. If the Parties are unable to resolve their dispute as a result of mediation under Section 2.6 above, the dispute shall be resolved by a single arbitrator before the AAA under the Arbitration Rules of the AAA, modified as follows: (i) the total time from date of demand for arbitration to final award shall not exceed forty-five (45) days; (ii) the arbitrator shall be chosen by the AAA without submittal of lists and subject to challenge only for good cause shown; (iii) all notices may be by telephone or other electronic communication with later confirmation in writing; (iv) the time, date and place of the hearing shall be set by the arbitrator in his or her sole discretion, provided that there be at least five (5) business days’ prior notice of the hearing; (v) there shall be no post-hearing briefs; (vi) there shall be no discovery except by reasonable order of the arbitrator; and (vii) the arbitrator shall issue his or her award within seven (7) days after the close of the hearing. The arbitration shall be held in the City of Salt Lake, Utah. The decision of the arbitrator shall be binding on the Parties, not subject to appeal, and judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The fees and expenses of the arbitrator shall be paid half by each party unless the arbitrator decides otherwise in its discretion. The Parties shall each hold harmless and indemnify the arbitrator from any claims arising in connection with the arbitration. The prevailing party in the arbitration shall recover its costs and reasonable attorney’s fees, which shall be determined and fixed by the arbitrator as part of the arbitration award.

2.8. Experience. Any mediator or arbitrator selected or appointed under this Agreement shall be an independent party, and, unless otherwise agreed by the Parties, shall have a minimum of ten (10) years of experience as an attorney.

### 3. Agreement to Convey.

3.1. Quitclaim Conveyance. Upon completion of the City Improvements and in consideration for the City’s ongoing maintenance of the City Improvements as set forth in Section 1, CPB will quitclaim to the City all of its interests in the Quitclaim Parcel pursuant to a Quitclaim Deed in the form of Exhibit C, attached hereto and incorporated herein by this reference (the “**Quitclaim Deed**”). Within one (1) week of the expiration of the Claim Notice Period and, if applicable, the period necessary to complete mediation and/or arbitration as set forth in Section 2.6 and Section 2.7, CPB shall deliver one (1) original of the Quitclaim Deed, duly signed and acknowledged by CPB, which shall have the effect of conveying all of CPB’s interests in the Quitclaim Parcel to the City but in all events without any warranties of any kind.

The City shall accept the Quitclaim Parcel in “AS IS,” “WHERE IS” condition without warranties, either express or implied, “WITH ALL FAULTS,” including but not limited to both latent and patent defects.

3.2. Conditions to Conveyance. The quitclaim of the Quitclaim Parcel and the delivery of the Quitclaim Deed are expressly conditioned on the satisfactory completion of the City Improvements as set forth in Section 2. The Parties agreed that CPB shall have no obligation to quitclaim to the City the Quitclaim Parcel in the event that the City Improvements are not satisfactorily completed.

4. No Liens. The City shall keep the Properties free from any liens arising out of any work performed, materials furnished, or obligations incurred by, through, for or under the City, and shall indemnify, hold harmless and agree to defend CPB from any liens that may be placed on the Properties and/or the property pertaining to any work performed, materials furnished or obligations incurred by, through, for, or under the City or any of its Agents. Any such liens shall be released of record within thirty (30) days of recordation.

5. Insurance. The City will ensure that prior to the City or its Agents entering onto the Properties, the City and all of its Agents and other such Parties who assist with the construction, maintenance or use of the Properties, each obtain policies which, at a minimum, provide CPB the protections set forth below. The City will ensure that prior to entering onto the Properties, its Agents are either covered by the City's insurance or maintain coverage as set forth below, naming CPB as an additional insured.

5.1. Liability Insurance Coverage and Limits. A commercial general liability insurance policy insuring the City's interests against claims for personal injury, bodily injury, death, property damage occurring on, in or about the Properties, with a "Combined Single Limit" covering personal injury liability, bodily injury liability and property damage liability) of not less than Two Million Dollars (\$2,000,000.00). The coverage set forth above shall be primary coverage and shall apply specifically to the Properties and adjacent areas;

5.2. Workers' Compensation Insurance. All Workers' Compensation and Employers' Liability Insurance required under applicable Workers' Compensation Acts and/or applicable law; and

5.3. Automobile Insurance. Automobile Liability Insurance with a minimum limit of not less than One Million Dollars (\$1,000,000.00) Combined Single Limit per accident, and coverage applying to "Any Auto."

5.4. Self-Insurance. The City has the right to satisfy its insurance obligations hereunder in accordance with its self-insurance program so long as it maintains actuarially sound reserves.

6. Indemnification. The City shall, at the City's sole expense and with counsel acceptable to CPB, indemnify, defend, and hold harmless CPB and the Indemnitees from and against all claims, losses, costs, damages, expenses, liabilities, liens, actions, causes of actions, assessments, fines and penalties of any kind including court costs and attorneys' fees actually incurred from any cause, other than CPB's gross negligence or willful misconduct, arising out of or relating directly or indirectly, to: (i) this Agreement; and/or (ii) the City's actions or omission on or near the Properties. This indemnification also extends to and includes claims for: (a) injuries to any persons, including death at any time resulting from that injury, and (b) loss of, injury, damage to, or destruction of property (including all loss of use resulting from that loss, injury, damage or destruction). Cause relating to this Agreement shall include, but not be limited to: (aa) the use or manner of use of the Properties by the City and its Agents; (bb) any act, error, omission, or negligence of the City or its Agents in, on or about the Properties; and (cc) any alterations, activities, work or other things done, omitted or permitted by the City and its Agents in, at or about the Properties, including the violation of or failure to comply with any applicable laws, statutes, ordinances, standards, rules, regulations, orders, decrees or judgments, in existence, on the date of this Agreement, or enacted, promulgated or issued after the date of this Agreement. The terms and conditions of this provision shall remain effective, notwithstanding the termination of this Agreement

7. Notice. Any notice to be given by either party to the other with respect to this Agreement shall be in writing and shall be deemed effective: (a) upon personal delivery to the other party at the address set forth below (or upon the refusal of any such attempted personal delivery), or (b) one (1) day after deposit with a nationally recognized air courier service for overnight delivery, addressed as set forth below, with delivery charges prepaid, or (c) three (3) days after deposit in the United States mail, certified, return receipt requested, postage prepaid (or as of any earlier date evidenced by a receipt from the United States Postal Service). Notices shall be addressed as follows:

If to the City: Cedar City Corporation  
c/o City Manager  
10 North Main Street  
Cedar City, Utah 84720

If to CPB: Corporation of the Presiding Bishop of  
The Church of Jesus Christ of Latter-day Saints  
Attn: Eric Schenk; PN 508-7236  
50 E. North Temple St., 12<sup>th</sup> Floor  
Salt Lake City, Utah 84150

Either party may designate a different address for itself by giving written notice in the manner required by this paragraph.

8. Miscellaneous.

8.1. Entire Agreement. This Agreement contains the entire agreement between the Parties. All previous or contemporaneous agreements, communications, discussions and negotiations relating to the subject matter hereof have been merged and finalized. This Agreement may only be modified or amended in writing by both Parties hereto.

8.2. Successors and Assigns. The provisions of this Agreement shall extend to and be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of the Parties hereto. Notwithstanding the foregoing, the City may not assign any portion of its interests and obligations under this Agreement, without the prior written consent of CPB which consent may be withheld in CPB's sole discretion.

8.3. Captions. The captions in this Agreement are for convenience only and do not constitute a part of the provisions hereof.

8.4. Severability. If any term or provision of this Agreement or the application of it to any person, entity or circumstance shall to any extent be invalid and unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

8.5. Applicable Law. This Agreement, and the interpretation, validity, effect and performance hereof, shall be governed by the laws of Utah.

8.6. Attorneys' Fees and Costs. If any action at law or in equity, or any special proceeding (including bankruptcy proceedings and appeals from lower court rulings), be instituted by either party against the other party to enforce this Agreement or any rights arising hereunder, or in connection with the subject matter hereof, the prevailing party shall be entitled to recover all costs of suit and reasonable attorneys' fees. For purposes of this Paragraph, the term "prevailing party" shall, in the case of a claimant, be the party who is successful in obtaining substantially all of the relief sought, and in the case of the defendant or respondent, the party who is successful in denying substantially all of the relief sought by the claimant.

8.7. Time is of the Essence. Time is expressly made of the essence of each and every provision of this Agreement.

8.8. Authority. The individuals executing this Agreement represent and warrant that they have the power and authority to do so and to bind the entities for which they are executing this Agreement.

8.9. Counterparts. Agreement may be executed in any number of duplicate counterparts, each of which shall be deemed an original, and when taken together shall constitute one and the same original Agreement, which shall be fully binding upon each party who executes the same.

IN WITNESS WHEREOF, the Parties have read and executed this Agreement effective as of the Effective Date defined above.

**CPB:**

CORPORATION OF THE PRESIDING BISHOP OF  
THE CHURCH OF JESUS CHRIST OF LATTER-DAY  
SAINTS,  
a Utah corporation sole

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**The City:**

CEDAR CITY,  
a municipal corporation of Utah

By: \_\_\_\_\_  
MAILE L. WILSON  
MAYOR

[SEAL]  
ATTEST:

\_\_\_\_\_  
RENON SAVAGE  
RECORDER

**EXHIBIT A**

**(Legal Description of the Property)**

That certain real property located in Iron County, Utah, specifically described as follows:

**SURVEY DESCRIPTION:**

BEGINNING AT A POINT S 00°09'22" W ALONG THE 1/16 SECTION LINE 481.30 FEET AND S 89°08'06" W 313.77 FEET AND S 00°54'48" E 202.62 FEET FROM THE CENTER EAST 1/16 CORNER OF SECTION 11, T36S, R11W, SLB & M AND RUNNING THENCE S 00°54'48" E 390.87 FEET; THENCE S 89°41'26" W 363.20 FEET; THENCE N 00°47'01" W 8.42 FEET; THENCE N 37°32'22" W 108.73 FEET; THENCE 319.96 FEET ALONG THE ARC OF A CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 207°14'51" AND A RADIUS OF 672.80 FEET; THENCE N 869°07'36" E 551.88 FEET TO THE POINT OF BEGINNING AND CONTAINS 4.25 ACRES

**EXHIBIT B**

**(Legal Description of the Quitclaim Parcel)**

That certain real property located in Iron County, Utah, specifically described as follows:

Beginning at a point being South 89°29'46" West 863.67 feet along the Center Section line and South 689.44 feet from the Center East 1 /16 Corner of Section 11 , Township 36 South, Range 11 West, Salt Lake Base & Meridian, and running; thence North 89°07'36" East 7.42 feet; thence southerly 296.32 feet along an arc of a 645.00 foot radius curve to the left (center bears North 81 °29'01" East, long chord bears South 21 °40'39" East 293.72 feet with a central angle of 26°19'19"); thence northwesterly 298.89 feet along an arc of a 672.80 foot radius curve to the right (center bears North 54°15'17" East, long chord bears North 23°01 '07" West 296.44 feet with a central angle of 25°27'12") to the Point of Beginning .

Contains 968sq. ft. 0.02 acres.

**EXHIBIT C**

**(Form Deed)**

WHEN RECORDED, MAIL TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WITH A COPY TO:

Corporation of the Presiding Bishop of  
The Church of Jesus Christ of Latter-day Saints  
Attn: \_\_\_\_\_; PN 508-7236  
50 E. North Temple St., 12<sup>th</sup> Floor  
Salt Lake City, Utah 84150

\_\_\_\_\_  
(space above reserved for Recorder's use only)

**QUITCLAIM DEED**  
(Property No. 508-7236)

CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS ("**Grantor**") hereby quitclaims to CEDAR CITY, a Utah municipal corporation ("**Grantee**"), whose address is \_\_\_\_\_, Cedar City, Utah \_\_\_\_\_, for the sum of Ten and No/100 Dollars and other good and valuable consideration, the following parcel of real property (the "**Property**") located in Iron County, State of Utah, and more particularly described as follows:

See Exhibit A, attached hereto and by this reference made a part hereof.

GRANTOR CONVEYS THE PROPERTY AND ANY AND ALL IMPROVEMENTS LOCATED THEREON IN THEIR "AS IS," "WHERE IS" CONDITION, SUBJECT TO ALL LEGAL REQUIREMENTS, WITHOUT WARRANTIES, EITHER EXPRESS OR IMPLIED, "WITH ALL FAULTS," INCLUDING BUT NOT LIMITED TO BOTH LATENT AND PATENT DEFECTS. BY ACCEPTING THIS DEED, GRANTEE WAIVES ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE CONDITION AND USE OF THE PROPERTY.

BY ACCEPTING THIS DEED, Grantee obligates itself to preserve and use the Property for public use for street and road purposes, together with the right to use the same for water, sewer, gas, power, telephone and other public utilities, sidewalks, and all those other uses that are ordinarily associated with streets or roads or vital to the public's health, safety and welfare.

IN THE EVENT any portion of the Property is vacated, abandoned, closed or declared surplus by Grantee, the Property shall automatically revert to Grantor.

RESERVING unto Grantor any water rights or rights to the use of water whether appurtenant to the Property or not in which Grantor may have an interest. Grantor does not intend by this deed to transfer any water rights or rights to the use of water and it is Grantor's intent that this conveyance shall not transfer any water rights or rights to the use of water by implication. The Grantor also specifically reserves, excepts and retains Mineral Rights. For purposes of this instrument, "Mineral Rights" include, whether on, in or under the Property, all of the following--minerals, whether common or precious; coal; carbons; hydrocarbons; oil; gas; petroleum; chemical elements and substances whether in solid, liquid or gaseous form; and steam and all sources of geothermal energy. In the event all or part of the Mineral Rights have been reserved or severed previously from the surface estate, Grantor

hereby reserves, excepts and retains all of the Mineral Rights not previously reserved and reserves, excepts and retains its after-acquired title to all of the Mineral Rights to the extent that prior reservations thereof are released or abandoned after the date of this conveyance. Notwithstanding, Grantor's interest in the Mineral Rights does not include a right to enter the surface of the Property, and Grantor hereby waives any such right to enter the surface of the Property by reason of its reservation of the Mineral Rights. If Grantor damages the surface of the Property through the exercise of its Mineral Rights, Grantor agrees to indemnify Grantee from any claims associated with said damage and to restore the surface of the Property to a condition that existed prior to said damage.

IN WITNESS WHEREOF, Grantor has executed this Quitclaim Deed this \_\_\_\_\_ day of \_\_\_\_\_ 2014.

GRANTOR:

CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole

**[DO NOT SIGN – EXHIBIT ONLY]**

By: \_\_\_\_\_  
Name (Print): \_\_\_\_\_  
Its: Authorized Agent

STATE OF UTAH                    )  
  :ss  
COUNTY OF SALT LAKE        )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2014 personally appeared before me \_\_\_\_\_, personally known to me to be an Authorized Agent of CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole, who acknowledged before me that he signed the foregoing instrument as Authorized Agent for the CORPORATION OF THE PRESIDING BISHOP OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS, a Utah corporation sole, and that the seal impressed on the within instrument is the seal of said corporation; and that said instrument is the free and voluntary act of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument on behalf of said corporation and that said corporation executed the same.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public for the State of Utah

Exhibit A

(legal description of the Property)

That certain real property located in Iron County, Utah, specifically described as follows:

Beginning at a point being South 89°29'46" West 863.67 feet along the Center Section line and South 689.44 feet from the Center East 1 /16 Corner of Section 11 , Township 36 South, Range 11 West, Salt Lake Base & Meridian, and running; thence North 89°07'36" East 7.42 feet; thence southerly 296.32 feet along an arc of a 645.00 foot radius curve to the left (center bears North 81 °29'01" East, long chord bears South 21 °40'39" East 293.72 feet with a central angle of 26°19'19"); thence northwesterly 298.89 feet along an arc of a 672.80 foot radius curve to the right (center bears North 54°15'17" East, long chord bears North 23°01 '07" West 296.44 feet with a central angle of 25°27'12") to the Point of Beginning .

Contains 968sq. ft. 0.02 acres.

*[end Form Deed]*

# Exhibit #4

**UNITED STATES OF AMERICA  
DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS**

**GRANT OF EASEMENT FOR RIGHT-OF-WAY**

LANDOWNER NAME: **PAIUTE INDIAN TRIBE OF UTAH**

TRACT NUMBER: **692 T 1 and 692 T 4**

TRACT DESCRIPTION: **TRIBAL**                   —

KNOW ALL MEN BY THESE PRESENTS:

That the United States of America, acting by and through Paul Schlafly, Acting Superintendent, Southern Paiute Agency, Bureau of Indian Affairs, Department of the Interior, St. George, Utah, for, and on behalf of the **PAIUTE INDIAN TRIBE OF UTAH**, hereinafter referred to as GRANTOR, pursuant to authority delegated to the Assistant Secretary – Indian Affairs by 209 DM 8, to the Director of BIA by 230 DM 1, to the Western Regional Director by 3 IAM 4, and to the Superintendent by historic Phoenix Area Re-Delegation Documents in 10 BIAM, and pursuant to the provisions of the Act of February 5, 1948 (62 Stat. 17; 25 USC 323-328); and 25 CFR (Code of Federal Regulations), Chapter 1, Part 169, of ONE DOLLAR (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant to **CEDAR CITY**, a municipal corporation of the State of Utah, its successors and assigns, hereinafter referred to as GRANTEE, an easement for right-of-way for the following purposes, specifically to: \_\_\_\_\_

Establish a right-of-way for improvements and realignment of an existing road known as North Paiute Drive. North Paiute Drive as it currently exists is entirely within the boundaries of land held by Cedar City. However, pursuant to the separate Memorandum of Agreement Between the Paiute Indian Tribe of Utah and Cedar City for the North Paiute Drive Improvement Project and Associated Right-of-Way Over Tribal Land (“**North Paiute Drive Agreement**”), the Paiute Indian Tribe of Utah (“**PITU**” or “**Tribe**”) and Cedar City have established terms and conditions for certain public improvements to North Paiute Drive in order to enhance the safety of motorists and pedestrians and to otherwise improve North Paiute Drive for the benefit of the Tribe and Cedar City, and their residents (hereinafter “**North Paiute Drive Improvement Project**”). The North Paiute Drive Improvement Project includes realignment of North Paiute Drive, which would require the granting of an easement for a right-of-way to Cedar City over five (5) small parcels of land that are held in trust by the United States for the Tribe, described as follows:

**PARCEL - A**

Beginning at a point on the east line of 100 East Street, said point being South 89°29'46" West 1,181.12 feet along the Center section line and North 134.66 feet from the Center East 1/16 Corner Section 11, Township 36 South, Range 11 West, Salt Lake Base & Meridian, and running;

thence North 00°51'06" West 56.57 feet along said easterly line of 100 East Street;  
thence southeasterly 145.53 feet along an arc of a 197.50 foot radius curve to the left (center bears North 66°04'10" East, long chord bears South 45°02'23" East 142.26 feet with a central angle of 42°13'05");  
thence South 66°08'55" East 61.42 feet;  
thence North 66°12'13" West 170.49 feet to the Point of Beginning.

Containing 1,544 square feet

Parcel A contains approximately 0.0354 acres, more or less.

**PARCEL - B**

Beginning at a point being South 89°29'46" West 890.87 feet along the Center section line and South 76.57 feet from the Center East 1/16 Corner Section 11, Township 36 South, Range 11 West, Salt Lake Base & Meridian, and running;

thence South 89°40'15" West 2.54 feet;  
thence North 29°14'46" West 81.27 feet;  
thence southeasterly 82.89 feet along an arc of a 255.00 foot radius curve to the right (center bears South 49°53'47" West, long chord bears South 30°47'28" East 82.53 feet with a central angle of 18°37'30") to the Point of Beginning.

Containing 276 square feet

Parcel B contains approximately 0.0063 acres, more or less.

**PARCEL - C**

Beginning at a point being South 89°29'46" West 874.46 feet along the Center section line and South 144.31 feet from the Center East 1/16 Corner Section 11, Township 36 South, Range 11 West, Salt Lake Base & Meridian, and running;

thence North 11°55'50" West 54.46 feet;  
thence southerly 54.56 feet along an arc of a 255.00 foot radius curve to the right (center bears South 71°56'22" West, long chord bears South 11°55'50" East 54.46 feet with a central angle of 12°15'36") to the Point of Beginning.

Containing 53 square feet

Parcel C contains approximately 0.0012 acres, more or less.

**PARCEL - D**

Beginning at a point being South 89°29'46" West 881.51 feet along the Center section line and

South 315.85 feet from the Center East 1/16 Corner Section 11, Township 36 South, Range 11 West, Salt Lake Base & Meridian, and running;

thence South 03°27'35" West 18.30 feet;  
thence North 01°53'26" West 18.27 feet;  
thence North 89°40'15" East 1.71 feet to the Point of Beginning.

Containing 16 square feet

Parcel D contains approximately 0.0004 acres, more or less.

**PARCEL - E**

Beginning at a point being South 89°29'46" West 876.15 feet along the Center section line and South 530.12 feet from the Center East 1/16 Corner Section 11, Township 36 South, Range 11 West, Salt Lake Base & Meridian, and running;

thence South 07°03'18" East 143.89 feet;  
thence southerly 16.45 feet along an arc of a 645.00 foot radius curve to the left (center bears North 82°56'42" East, long chord bears South 07°47'09" East 16.45 feet with a central angle of 01°27'41");  
thence South 89°07'54" West 7.42 feet;  
thence northerly 98.65 feet along an arc of a 672.80 foot radius curve to the right (center bears North 79°42'29" East, long chord bears North 06°05'29" West 98.57 feet with a central angle of 08°24'05");  
thence North 01°53'26" West 61.24 feet to the Point of Beginning.

Containing 915 square feet

Parcel E contains approximately 0.0210 acres, more or less.

**The TOTAL described easement contains approximately 0.0643 acres, more or less.**

To have and to hold the said easement and right-of-way unto the GRANTEE and unto its successors and assigns, with the right to construct, maintain, and repair improvements, thereon and thereover, subject to the following provisions:

1. Pursuant to the separate North Paiute Drive Agreement, the PITU has agreed to use funds provided to the PITU from the Bureau of Indian Affairs under the following P.L. 93-638 contracts for the North Paiute Drive Improvement Project: PS&E, Construction and Construction Monitoring of Road Construction Projects CTH69T6222 – H6939100 – PTU 301(1), CTH69T69224 – H696100 – KAIR Chip Seal No. 1, and CTH69T69226 – ARRA CCIC Safety #1.

2. Cedar City shall have no indemnification obligation of any kind during construction of the North Paiute Drive Improvement Project by PITU or its subcontractors, or for a one-year warranty period thereafter.
3. Upon completion of North Paiute Drive Improvement Project and the expiration of the one-year warranty period, GRANTEE agrees to indemnify GRANTOR and authorized users and occupants against any liability for loss of life, personal injury and property damage arising from the construction, maintenance, occupancy or use of the lands by GRANTEE, its employees, contractors and their employees, or subcontractors and their employees.
4. As set forth in the separate North Paiute Drive Agreement, the Tribe has agreed to waive its right to damages and compensation, and to the deposit described in 25 CFR 164.4, associated with the survey, granting, and initial construction of the right-of-way; provided however that GRANTEE agrees to pay all damages and compensation determined by the Secretary to be due to GRANTOR and authorized users and occupants of the land as a result of GRANTEE's ongoing maintenance of the right-of-way and any future construction of improvements to the right-of-way by GRANTEE.
5. GRANTEE agrees that, in the event that archaeological or historical remains, burials, cultural artifacts, or other antiquities not previously reported are encountered in the easement area, all activity in the immediate vicinity of the remains or artifacts shall cease and the BIA approving official and the Tribe shall be contacted immediately to determine disposition.
6. GRANTEE agrees to maintain, and construct any future improvements to, the right-of-way in a workmanlike manner.
7. GRANTEE agrees to clear and keep clear the lands within the right-of-way to the extent compatible with the purpose of the right-of-way; and dispose of all vegetative and other material cut, uprooted or otherwise accumulated during maintenance of the right-of-way, or future construction of improvements by GRANTEE.
8. GRANTEE agrees to take soil and resources conservation protection measures, including weed control, on the land covered by the right-of-way.
9. GRANTEE agrees to do everything reasonable within its power to prevent and suppress fires on or near the lands to be occupied under the right-of-way.
10. GRANTEE agrees to build and repair such roads, fences and trails as may be destroyed or injured by GRANTEE's construction or maintenance of the right-of-way and to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated by GRANTEE under the right-of-way.

11. Upon revocation or termination of the right-of-way, Cedar City may abandon the right-of-way, or may restore the land to its original condition. Pursuant to the North Paiute Drive Agreement, PITU expressly waives any right to require Cedar City to restore the North Paiute Drive Right-of-Way to its original condition, or to bear expenses and costs incurred by PITU and/or the United States in accomplishing said restoration, as a condition of the right-of-way application pursuant to 25 CFR § 169.5(i).
12. GRANTEE agrees at all times to keep the Secretary informed of its address, and in case of corporations, of the address of its principal place of business and the names and addresses of its principal officers.
13. GRANTEE agrees to not interfere with the use of the lands by or under the authority of the GRANTOR for any purpose not inconsistent with the primary purpose for which the right-of-way is granted.
14. All notices, requests, payments, and demands regarding the right-of-way shall be sent to the addresses herein recited or to such address as may hereafter be designated in writing. Service of any notice or demand shall be deemed completed within (10) days after mailing to on the date actually received, whichever occurs first. Notices, requests, payments and demands shall be sent by certified mail, return receipt requested, to:

The Superintendent  
Bureau of Indian Affairs  
Southern Paiute Agency  
P.O. Box 720  
St. George, Utah 84771

GRANTOR: Paiute Indian Tribe of Utah  
440 North Paiute Drive  
Cedar City, Utah 84721

GRANTEE: Cedar City  
10 N. Main Street  
Cedar City, UT 84720

This easement is subject to any prior valid existing right or claim and is without limitation as to tenure, so long as said easement shall be actually used for the purpose specified above; PROVIDED, that this easement may be terminated in whole or in part by the GRANTOR for any of the following causes upon 30 days written notice, and failure of the GRANTEE within said notice period to correct the basis for termination (25 CFR 169.20):

1. Failure to comply with any term or condition of the Grant, or the applicable regulations.
2. A non-use of the easement for any consecutive two-year period for the purpose for which it was granted.
3. An abandonment of the right-of-way, as determined by the BIA.

The condition for this easement shall extend to and be binding upon the successors and assigns of the GRANTEE.

IN WITNESS WHEREOF, GRANTOR has executed this grant of easement this \_\_\_\_ day of \_\_\_\_\_, 2015.

**UNITED STATES OF AMERICA**

BY \_\_\_\_\_  
 U.S. Department of the Interior  
 Bureau of Indian Affairs

Southern Paiute Agency, St. George, Utah 84771, Approved pursuant to authority Delegated to the Assistant Secretary – Indian Affairs by 209 DM 8, to the Director of BIA by 230 DM 1, to the Western Regional Director by 3 IAM 4, and to the Superintendent by historic Phoenix Are Re-Delegation Documents in 10 BIAM.

**A C K N O W L E D G E M E N T**

STATE OF \_\_\_\_\_:

: ss.

COUNTY OF \_\_\_\_\_:

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_,

20\_\_\_\_.

Signature of Notary Public

SEAL

My commission expires \_\_\_\_\_, 20\_\_\_\_\_.

# 6

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

A RESOLUTION OF THE CEDAR CITY COUNCIL AMENDING THE PROVISIONS OF CEDAR CITY RESOLUTION 14-0212-1, A RESOLUTION ADOPTING GUIDELINES AND PROCEDURES FOR DETERMINING INSURANCE COVERAGE REQUIREMENTS.

**WHEREAS**, on or about February 12, 2014, the Cedar City Council passed a resolution adopting guidelines and procedures for determining insurance coverage requirements, hereinafter referred to as the insurance resolution; and

**WHEREAS**, the provisions of the insurance resolution have been used by staff for approximately one (1) year and while the provisions have tended to standardize the City's insurance requirements outside entities leasing City property some City operations have observed the insurance requirements for some events may be resulting in a loss of business; and

**WHEREAS**, Leisure services estimates the insurance requirements from the insurance resolution have resulted in the City losing the following events; one archery shoot, 11 barrel racing events, 4 roping events, 3 national barrel horse association events, 3 working cow horse shows, 2 junior rodeos, 2 reining shows, 5 4H events, and at least one 5K/10K road race; and

**WHEREAS**, when the insurance resolution was adopted the City did not express an intent to loose or forego bookings, rather the resolution was set up to provide a guide so that City Staff could assess the amounts of insurance required for particular classes of events; and

**WHEREAS**, many of the 5K/10K races are charitable events and requiring insurance diverts resources that would otherwise benefit the charity to buying insurance; and

**WHEREAS**, the events at the Cross Hollow Arena are typically hosted by small groups having limited resources to where the insurance requirements are too costly of a burden; and

**WHEREAS**, pursuant to UCA §78B-4-201, et. sec. equine event sponsors have some liability protections from claims resulting in injury or death by participants in equine events; and

**WHEREAS**, City staff would like to recommend the classes of events listed in the preceding paragraphs be reclassified so as to not require insurance.

**NOW THEREFORE** be it resolved by the City Council of Cedar City, State of Utah, that the City's policy related to requiring insurance shall be amended by removing the struck through language and inserting the underlined language:

1. The guidelines contained below shall be used as a guide by City Staff when assessing the amount of insurance an individual event or activity shall be required to obtain. These guidelines are to be used so that future events can be grouped with events having similar crowd sizes and relative risk to persons and property.

A. Activities with similar numbers of anticipated participants and risk will not be required to provide insurance<sup>1</sup>:

1. Park pavilion rentals for groups less than 100 people. Types of activities in this category shall be similar to family reunions, company picnics, social gatherings, and church parties.
2. Free public events.
3. Not for profit outdoor dances with an estimated attendance of 500 people or less.
4. Community rally or march.
5. Art Festivals.
6. Walks.
7. Unless the event planned for the Heritage Center or Festival Hall requires insurance pursuant to another section of this policy, use of the Heritage Theater or Festival Hall.
8. 5K/10K road or trail races.
9. Archary Shooting Competitions.
10. Roping evnets.
11. Barrel Racing events.
12. Jr. Rodeos.
13. Working Cow Horse events.
14. Reining Shows.
15. Events of a similar nature to those listed above and hosted by a recognized non-profit sponsor such as the 4H

B Activities with similar number of anticipated participants and risk will be required to obtain a one million dollar (\$1,000,000.00) insurance policy:

1. ~~5k/10k runs~~
2. Baseball/softball tournaments.

<sup>1</sup> Activities using animal rides for paying customers, inflatable slides or other interactive inflatable attractions, mechanical rides, climbing walls, or other similar devices and meeting the broad categories contained herein shall be moved to another category for determination of the appropriate insurance coverage.

3. Swimming meets.
  4. Musical concerts
  5. Soccer tournaments.
  6. Not for profit outdoor dances with anticipated attendance greater than 500 people.
  7. Fly ball events and equipment leases.
  8. Bicycle races.
  9. Events using City's portable stage.
  10. Road races with a greater distance than 5K/10K.
  11. Triathlon.
  12. Unless stated otherwise herein, Equestrian events, other than rodeos, with anticipated attendance of more than 100 people.
  13. Sports leagues unless otherwise specified in a contract.
  14. Utah Summer Games.
  15. Parades requiring closure of a City street.
- C. Activities with similar number of anticipated participants and risk will be required to obtain a two million dollar (\$2,000,000.00) insurance policy:
1. Events using the City's portable stage with anticipated attendance with over 500 hundred.
  2. Events incorporating, associated with, or offering: animal rides, inflatable slides or other interactive inflatable attractions, mechanical rides or amusement devices, climbing walls, food or liquor, or other similar devices.
  3. Soap box derby.
  4. Events using the top floor of the City parking garage for something other than parking.
- D. Activities with similar number of participants and risk will be required to obtain a three million dollar (\$3,000,000.00) insurance policy:
1. Rodeos.
  2. Carnivals.

3. Circus.
  4. Aircraft or hot air balloons.
  5. Motorized racing vehicles.
  6. Participants.
  7. Events where the anticipated attendance is greater than 250 people and the event is offering, associated with, or incorporating large animals, interactive inflatable attractions, climbing walls, or any sort of projectile.
2. When estimating the number of persons in attendance staff shall be allowed to rely on the representations from the event sponsor and in the case of a repeat event the staff will be allowed to use past years attendance. Event attendance for a multi-day event shall be the total attendance during the entire duration of the event.
  3. Individual departments have more experience with the events they normally work with and are encouraged to use that experience when determining the level of insurance. Department heads shall be responsible for administering this resolution when the events will be using the department's facilities. If an event is going to use facilities from more than one department the department heads will coordinate their efforts so the information given to the event sponsor is consistent. If there is a question as to the proper amount of required insurance department heads are encouraged to consult with the legal department. If there is further question as to what insurance should be required the decision of the City Manager is final.
  4. Insurance policies are for general liability covering each occurrence, damages to the rented premises, personal injury, products, and a general aggregate. The minimum insurance required above shall be for the general liability with the other insurances provided at standard industry amounts. All policies must cover the event related liabilities of the insured and additional insured parties. If appropriate to the event the insurance policy shall include other areas of coverage as are appropriate. Rates for additional coverage areas shall meet the minimum requirements of this policy. Insurance policies must be on a per occurrence basis and name Cedar City Corporation as an additional insured.
  5. Insurance policies will be accepted from a reputable provider. The event host is responsible for obtaining appropriate insurance. Using a local insurance vendor is encouraged. The event host may also inquire with City staff for event insurance offered through the City's affiliation with URMMA which will cover the entire event including City's liability for its operation and maintenance of the facility.
  6. Cedar City will not be permitted to apply for UDOT permits or provide the City's liability insurance for UDOT permits for parades or events that are not principally organized, funded, and managed by Cedar City and require a UDOT permit.

This resolution, Cedar City Resolution No. \_\_\_\_\_, will be effective upon passage.

Ayes:            Nays:            Abstained:

Dated this \_\_\_\_\_ day of February, 2015.

\_\_\_\_\_  
MAILE L. WILSON  
MAYOR

[SEAL]  
ATTEST:

\_\_\_\_\_  
RENON SAVAGE  
RECORDER

