

## **AGREEMENT REGARDING THE MANAGEMENT OF THE BLUFF CEMETERY AND CROSS-ACCESS EASEMENT**

This Agreement Regarding the Management of the Bluff Cemetery and Cross-Easement (the “Agreement”) is valid and effective as of the \_\_\_\_\_ day of December, 2025, and is entered into by and among the following Parties:

### **PARTIES**

Town of Bluff , 190 North 3<sup>rd</sup> East, Bluff, Utah 84512 (“Bluff”); and

Bluff Cemetery District, 190 North 3<sup>rd</sup> East, Bluff, Utah 84512 (“District”); and

The Hole In The Rock Foundation, 500 E Hwy 191, Bluff, Utah 84512 (“HITRF”); and

San Juan County, 117 South Main, Monticello, Utah 84535 (“County”).

### **RECITALS**

Whereas, the property known as “Bluff Cemetery” (or “Cemetery”) is located slightly west and north of the town center up on a hill that overlooks the entire Bluff area; and

Whereas, the Cemetery is more or less divided into three main parts – north, middle, and south – as set forth in Exhibit “A”, attached hereto and incorporated herein; and

Whereas, the Cemetery can be accessed by way of North Pioneer Drive, a paved Town of Bluff road that is an extension of Mulberry Avenue, running westward and then northeasterly up a hill to the Cemetery; and

Whereas, San Juan County records show ownership of the Cemetery to be under the names of Hole In The Rock Foundation (north and middle sections) and Bluff Cemetery District (south section); and

Whereas, the westerly portion of the north section (“Bluff Portion”) is managed by Bluff with burials as recent as the current year; and

Whereas, the middle and south sections consist mostly of historical grave sites and no new burial activities; and

Whereas, all Parties recognize the importance of properly maintaining the Cemetery, of accurate record keeping, of providing easy access to the public, of minimizing legal liability, of cost sharing, and of working together such that all of these items are adequately attended to; and

Whereas, the purpose of this Agreement is to set forth in writing how the Parties will work together in a more efficient manner as to all of these areas of concern.

Now therefore, in consideration of the mutual promises and obligations set forth herein, the Parties agree as follows:

## TERMS AND CONDITIONS

### **1. Ownership and Conveyances.**

The foregoing recitals are incorporated into this Agreement. The Parties agree that ownership of the north, middle, and south portions of the Cemetery will be modified such that the Town will be the record owner of the west one half of Tax Parcel No. 774-778; HITRF will retain ownership of the east one half of that same parcel; the “middle” parcel shall be retained by HITRF; and Tax Parcel No. 823-432 will be conveyed by the District to HITRF. The Parties agree to cooperate in performing a boundary line adjustment with respect to these parcels, as needed. The Parties will execute and record quit claim deeds in a form mutually acceptable that confirm that title to the three parcels is vested in the HITRF and the Town of Bluff as provided in this Agreement. Those conveyances shall be completed no later than March 1, 2026.

### **2. Access/Cross-Easements.**

The Parties agree that the entire Cemetery area shall be open to all who wish to visit grave sites and the Cemetery in general. This includes those on foot who wish to walk among the burial plots and different parts of the Cemetery to honor and remember and study information about the deceased. This access is not intended to permit access onto the burial plots themselves or fenced off areas, or other areas designated as “off limits”, if any. The HITRF and Bluff, each hereby grant without warranty reciprocal non-exclusive easements to the other for purposes of public pedestrian and vehicle access to their respective parcels as shown in Exhibit B. Bluff and the HITRF agree to confer as necessary to jointly devise and implement reasonable rules as may be necessary to facilitate public access. The cross-easement granted expressly includes the right of vehicular and pedestrian access across the Bluff and HITRF parcels as necessary to access the lands held or to be held by the other.

- A. The intent of this easement is to ensure that all who visit the Bluff Portion will have access, a place to gather and a place to park as they visit the Cemetery. It is also intended to grant access to any manpower and equipment necessary to maintain the Bluff Portion.

### **3. Cost Sharing; Maintenance.**

The Parties agree that costs associated with maintaining North Pioneer Road and the turnaround area in the north part of the Cemetery will be shared equally by HITRF and Bluff. Costs associated with maintaining the middle and south part of the Cemetery will be solely the responsibility of HITRF, and responsibility for maintenance of the north parcel will be solely the responsibility of Bluff. Bluff and the HITRF agree to work together in good faith in determining when maintenance is needed, the scope of necessary repairs, and the process for hiring the persons or entities that provide services.

#### **4. Mutual Release & Waiver.**

The Parties, on behalf of themselves, their successors, heirs and assigns, jointly and severally hereby mutually waive the right to bring any claim against another Party for any act or omission prior to the effective date herein.

- A. In addition, as an inducement for each Party to enter into this Agreement, each Party, on behalf of themselves, their successors, heirs and assigns, jointly and severally, hereby irrevocably and unconditionally release, acquit, and forever discharge any and all of the other Parties to this Agreement, their successors, heirs and assigns, and any and all persons acting by, through, under, or in concert with any of them, from and against any and all charges, complaints, claims, demands, indebtedness, breaches of contract, acts, omissions, misfeasance, malfeasance, liabilities, obligations, promises, agreements, controversies, breach of duty (fiduciary or otherwise), damages, actions, causes of action, suits, defaults, rights, demands, costs, losses, debts, and expenses (including attorney's fees and costs incurred), violations or alleged violations of any laws, rules or regulations, of every type, kind, nature, description, or character, and irrespective of how, why, or by reason of what facts, whether heretofore, now existing, or hereafter arising, or which could, might, or may be claimed to exist, of whatever kind or name, whether known or unknown, suspected or unsuspected, fixed or contingent, liquidated or unliquidated, each as though fully set forth herein at length, which any party now owns, or holds, or claims to have, own, or hold, directly or indirectly, personally or in a representative capacity, or which any party at any time prior to the date of this Agreement had, owned, or held, or claimed to have had, owned, or held against any other party, or any conduct, alleged act or omission of any of the parties.
- B. Each Party also acknowledges that they may hereafter discover facts which occurred from the beginning of time to the effective date herein, which are different from or in addition to those which they now know to be true, and agree that this Agreement and the releases contained herein be and remain effective in all respects notwithstanding such different or additional facts or the discovery thereof. Each Party expressly waives the benefit of any statute or rule of law, if any, which might otherwise limit the scope of this Agreement because of unknown matters existing from the beginning of time to the date of execution of this Agreement, whether material or otherwise.

#### **5. Legal Counsel.**

Each Party to this Agreement acknowledges, represents, and warrants that it has received advice of competent legal counsel of its own choosing in negotiations for and the preparation of this Agreement and the releases of claims set forth herein, that such Party has read this Agreement or has had the same read to it by its legal counsel, that it has had the within releases of claims fully explained by such legal counsel, and that it is fully aware of this Agreement's contents and legal effect, or has had an opportunity to obtain legal counsel but chosen not to do so.

## **6. Reads and Understands.**

Each Party hereto acknowledges that it has read and understands the effect of the above and foregoing document and executes the same of its own free will and accord for the purpose and consideration set forth.

## **7. Successors & Assigns.**

This Agreement and each other document contemplated hereby will be, when duly executed and delivered, a legal, valid and binding obligation of such Parties, and their respective heirs and obligees, enforceable in accordance with the terms thereof.

## **8. Dissolution of the District.**

The Parties acknowledge and agree that the Bluff Cemetery District has been inactive for a number of years. It is the intention of the Parties that all functions formerly undertaken by the District will be assumed by Bluff contemporaneous with the conveyances specified in Section One, above. Accordingly, the District is dissolved effective with the conveyances in Section One. All records and real or personal property of the District shall be transferred to Bluff as otherwise specified in Section One. Bluff will assist the District in preparing all necessary documents to give effect to this provision, and the District agrees to cooperate executing necessary documents and all other incidental performances to give effect to this provision.

## **9. No Waiver of Immunity.**

The Parties each acknowledge and agree that nothing in this Agreement shall be regarded as a waiver of any legal immunities possessed by the governmental entities signing this Agreement including, but not limited to, immunity arising under the Utah Governmental Immunity Act, U.C.A. § 63G-7-101 et seq.

## **10. Interpretation & Jurisdiction; Jury Waiver.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Utah. The exclusive venue for any legal proceeding involving the interpretation or enforcement of this Agreement shall be the Seventh Judicial District Court, San Juan County, Utah. Any judicial proceeding concerning or arising out of this Agreement shall be decided by the court, sitting without a jury.

## **11. Attorney's Fees.**

If any action is brought because of any breach or to enforce or interpret any of the provisions of this Agreement, the prevailing Party in such action shall be entitled to recover from the defaulting Party reasonable attorneys' fees and court costs incurred in connection with such action, the amount of which shall be fixed by the court and made a part of any judgment rendered.

## **12. Entire Agreement; Miscellaneous Provisions.**

This Agreement, including the Recitals set forth above, constitutes the entire agreement between the Parties hereto relative to the subject matter hereof. Any prior negotiations, correspondence, or understandings relative to the subject matter hereof, shall be deemed to be merged in this Agreement and shall be of no further force or effect. This Agreement may not be amended or modified except in writing executed by all of the parties. The parties to this Agreement are specified on page one. No other persons or entities shall have the right to enforce or invoke any remedies under this Agreement, and the parties expressly disclaim any duties to any such third-parties. This Agreement shall be recorded in the San Juan County land records. Time is of the essence in the performance of all obligations under this Agreement.

### **13. Invalidity of Provision.**

If any provision of this Agreement is found by a court to be void or unenforceable for any reason, the same shall in no way affect (to the maximum extent permitted by applicable law) any other provision of this Agreement

**14. Authority to Sign.**

The undersigned Parties represent to all the other Parties that each has authority to sign in his / her stated capacity and acknowledge that all other Parties are signing this Agreement in reliance upon such representation.

## Signature Page Follows

In witness whereof, the undersigned Parties have executed this Agreement as of the Effective Date set forth above.

Town of Bluff:

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By: Ann Leppanen

Its: Mayor

Attest:

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Linda Sosa, Recorder

Hole In The Rock Foundation:

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By:

Its:

Attachments: Exhibits A and B

-End of Document-

Bluff Cemetery District:

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By:

Its:

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Date

San Juan County:

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By:

Its: