



NIBLEY CITY COUNCIL MEETING AGENDA

Thursday, October 28, 2021 – 6:30 p.m.

In accordance with Utah Code Annotated 52-4-207 and Nibley City Resolution 12-04, this meeting may be conducted electronically. The anchor location for the meeting will be Nibley City Hall, 455 West 3200 South, Nibley, Utah. The public may also participate in the meeting via the Zoom meeting link provided at www.nibleycity.com. Public comment should be submitted to cheryl@nibleycity.com by 6:30 p.m. and will be read into the public record.

1. Opening Ceremonies (Councilmember Beus)
2. Call to Order and Roll Call (Chair)
3. Approval of the September 23, 2021, Meeting Minutes and the Current Agenda (Chair)
4. Public Comment Period¹ (Chair)
5. Planning Commission Report
6. **Discussion & Consideration** – Resolution 21-24: Amending Fee-in-Lieu for Water Shares for Developments Vested Prior to September 10, 2020 (Second Reading)
7. **Discussion & Consideration** – Resolution 21-25: Establishing a Municipal Fiber Optic Network as a City Priority (First Reading)
8. **Discussion & Consideration** – Interlocal Boundary and Future Annexation Area Agreement Between Nibley City and Hyrum City
9. **Discussion & Consideration** – Interlocal Agreement Between Cache County and the City of Nibley for Fire Inspections for Businesses in Nibley
10. Council and Staff Report
11. **Adjourn to Closed Session** – To discuss the Purchase, Exchange, or Lease of Real Property Pursuant to Utah Code 52-4-205

In compliance with the Americans with Disabilities Act, reasonable accommodations for individuals with disabilities will be provided upon request. For assistance, please call (435) 752-0431.

¹ Public input is welcomed at all City Council Meetings. 15 minutes have been allotted to receive verbal public comment. Verbal comments shall be limited to 3 minutes per person. A sign-up sheet is available at the entrance to the Council Chambers starting 15 minutes prior to each council meeting and at the rostrum for the duration of the public comment period. Commenters shall identify themselves by name and address on the comment form and verbally for inclusion in the record. Comment will be taken in the order shown on the sign-up sheet. Written comment will also be accepted and entered into the record for the meeting if received prior to the conclusion of the meeting. Comments determined by the presiding officer to be in violation of Council meeting rules shall be ruled out of order.

² Items on the Consent Agenda are considered to be routine and/or non-controversial and will be approved in one vote.



Agenda Item #6

Description	Discussion & Consideration – Resolution 21-24: Amending Fee-In-Lieu for Water Shares for Developments Vested Prior to September 10, 2020 (Second Reading)
Presenter	Shaun Dustin, Mayor
Recommendation	Move to approve Resolution 21-24: Amending Fee-In-Lieu for Water Shares for Developments Vested Prior to September 10, 2020.
Reviewed By	Mayor, City Manager, City Attorney,

Background:

(from 9-23-21 AIR)

Nibley's City Council has developed ordinances designed to diversify housing stock recognizing that there is a need to maintain a mix of family demographics that have helped the City to be what it is. PUDs were created to facilitate this.

We did not adequately understand or investigate the amount of water required under city code for new and more dense housing types, and underestimated how much water would be required; historically, developers had been able to turn over the water that came with their land on an approximate acre-per-acre basis. The City had an ordinance on the books (Fee in Lieu, FIL) that allowed people to purchase the right to use water the City owned for development if it was available, but the ordinance was obscure and had not been used in memory, so it had not been updated for many years.

FIL undervalued water in the City. When this was coupled with the demand for more water created by the changes to the General Plan and ordinance to allow PUDs, it created a situation where the City might have to sell water to developers for less than we paid for it. In response to this, we raised the amount of our FIL fee from \$500 per acre foot to \$2500 per acre foot.

Three proposals were accepted by the City for development under the PUD ordinance and in compliance with the General Plan, several months before the change to the FIL went into effect. In most cases, State Law requires that proposals like this have standing at the time of acceptance by the City. The exception is in the case of fees. In

that case, the City has discretion. The City also has discretion because City Code 15.02.030.B allows that:

“...the City Council may from time to time fix, by agreement or resolution, special rates and conditions for users using exceptionally large amounts of water service or making use of the water system under exceptional circumstances, upon such terms and conditions as they may deem proper...”

The purpose of this Resolution is to provide a compromise that preserves the ability of all parties to move forward with the General Plan as envisioned in the approved PUDs and represents responsible stewardship of city resources; it was not the Council's intent to create a situation where subdivision applicants with standing, who are attempting to assist the City to comply with the General Plan, are disincentivized from working in good faith with the city to build what we have directed them to build.

The City has the water in hand to facilitate this compromise. The total maximum water required would be XXXX shares. The City has in hand YYYY shares. Most of the surplus water the City has on hand was provided at no cost to the City as water from development that was in excess of the water required to service our demand. The most the City has paid for water shares via direct purchase is \$2500/share. The Resolution sets the price at \$2500 per share in recognition of this, and increases the value by 2% per year to recognize inflation.

The proposal requires the requestor to provide proof of need by disclosing all purchase documents and water transactions, and to provide a qualified study as outlined in the resolution to be eligible for the program, and limits the program to the three specific PUDs that had standing prior to passage of the new FIL ordinance.

The recommendation is to pass the Resolution. It keeps faith with the entities that are helping the City to develop the General Plan, it keeps the City Budget whole by ensuring that the Citizens are fairly compensated for the water provided, it limits the scope of the agreement to the three parties that in all other aspects had standing prior to the changes to City Code, and it preserves the ability of the Council to keep the existing FIL in place.

RESOLUTION 21-24

A RESOLUTION AMENDING FEE-IN-LIEU FOR WATER SHARES FOR DEVELOPEMTNS VESTED PRIOR TO SEPTEMBER 10, 2020.

WHEREAS, The City made planning decisions to diversify housing stock to maintain a mix of family demographics that have helped the City to be successful, and created PUDs to facilitate these decisions; and

WHEREAS, in an effort to bring fees in lieu of water in-line with rates for surrounding communities, Nibley changed the fee in lieu of water by a factor of 15, after approval of land use applications for 3 PUDs; and

WHEREAS, the City Council did not adequately understand or investigate the amount of water required under city code for new and more dense housing types; and

WHEREAS, the City Council, upon seeing the inadequacy of city code has made changes to more accurately assess water quantity and pricing; and

WHEREAS, Ridgeline Park, Firefly Estates, and Nibley Farms PUDs were all submitted, approved consistent with the General Plan, and vested, prior to the changes in Nibley's fee in lieu structure; and

WHEREAS, it was not the Council's intent to create a situation where subdivision applicants with standing, who are attempting to assist the City to comply with the General Plan, are disincentivized from working in good faith with the city to build what we have directed them to build; and

WHEREAS, consistent with State law, the City has collected water surplus to provide for the future needs of the city that is dedicated to supporting uses that are consistent with city values and goals as outlined in the General Plan and as enacted through the legislative subdivision approval process; and

WHEREAS, the City has the surplus water in hand to facilitate this specific proposal without negatively impacting the financial interest of the citizens.

WHEREAS, City Code 15.02.030.B allows that "...The City Council may from time to time fix, by agreement or resolution, special rates and conditions for users using exceptionally large amounts of water service or making use of the water system under exceptional circumstances, upon such terms and conditions as they may deem proper..."; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF NIBLEY CITY, STATE OF UTAH, AS FOLLOWS:

1. The City would like to structure a compromise that preserves the ability of all parties to move forward with the General Plan as envisioned in the approved PUDs and represents responsible stewardship of City resources.
2. Nibley City will make fee in lieu water available to the three PUD applicants who were vested with the PUD ordinance at the time Resolution 20-11 was enacted under the following conditions:

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WHEREAS, consistent with State Law, the City has collected water surplus to provide for the future needs of the city that is dedicated to supporting uses that are consistent with city values and goals as outlined in the General Plan and as enacted through the legislative subdivision approval process; and

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- A) Applicants shall provide to the city all documents related to sale or transfer of water ownership related to the subject parcels, and any and all transactions with the previous owners of the parcels.
 - B) Applicants will provide a summary of all water attached to the property in question and appurtenant to their contract with the previous owners, that is consistent with the documentation required above.
 - C) Applicants will provide a sworn and notarized affidavit attesting to the amount of water acquired in the primary transaction and effort to acquire any additional water and total quantity of water acquired by the development group. The affidavit will commit any and all water listed to satisfy the requirements of the project. By providing the affidavit the proponent agrees that if the City determines that the affidavit is false, omits information, or is otherwise lacking in good faith, or that water has been removed from the project and reallocated to other projects or sold on the market or is being withheld for any purpose, the proponent will no longer be eligible for this resolution, and will not be eligible for any fee in lieu water at any price from the City.
 - D) To participate in this program, applicants will provide an independent analysis of water consumption stamped by a registered professional engineer, licensed in the State of Utah and competent in this field consistent with city code, and a detailed review of development proposal to establish the actual amount of water required to complete the development as approved in the development agreement. This will be reviewed by the city engineer or their designee and brought to council for a recommendation of acceptance or rejection. If accepted, it will establish the amount of water necessary to complete the project.
 - E) On an as needed and as available basis the City will calculate the value of the surplus water available for fee in lieu as follows:
 - i. Calculate a present day value for water shares based on the original price of \$2500 from the last major water share purchase by the City, escalated at 2%/yr from date of purchase at the time the request to purchase is made.
 - ii. Multiply the quantity required per the approved analysis by the price determined herein
 - iii. Make shares available at the price determined above.
- 3) This resolution is effective only for the specific projects outlined herein. Any applications received after the effective date of the new fee in lieu ordinance will be evaluated on their own merits.

PASSED and ADOPTED BY THE NIBLEY CITY COUNCIL THIS _____ DAY OF _____, 2021.

Shaun Dustin, Mayor

ATTEST:

Cheryl Bodily, City Recorder

Agenda Item #7

Description	Discussion & Consideration – Resolution 21-25: Establishing a Municipal Fiber Optic Network as a City Priority (First Reading)
Presenter	Justin Maughan, City Manager
Recommendation	Move to approve Resolution 21-25: Establishing a Municipal Fiber Optic Network as a City Priority, for first reading.
Reviewed By	Mayor, City Manager, City Attorney

Background:

Municipal fiber is a growing service that is being provided by some Cities across the Country, and the State. Numerous federal and state agencies have began offering up grant programs to help cities fund fiber projects and give their residents access to high speed internet.

Providence has recently started a multi year project to take fiber into the homes of all Providence residents. They have secured the required funding through a bond, and have began construction. Recently the State of Utah issued a grant program that Providence is interested in applying for, to help offset their cost and lower the amount they actually have to borrow against. In order to make their grant application more competitive, they have reached out to Nibley and Millville, and asked that they be willing to partner in an application. The benefit to Nibley and Millville would be that, the current costs of Providence's project, will cover the cost of the required match for the grant, and get some portion of the City access to high speed fiber internet in homes.

The purpose of this resolution, is simply to strengthen the grant application. It does not tie Nibley to any financial obligation. Many more discussions and much more detail will be discussed and presented to the Council if the project moves forward.

RESOLUTION 21-25

A Resolution of the City Council of the City of Nibley, Establishing a Municipal Fiber Optic Network as a City Priority

WHEREAS, The City Council has established a goal to “Increase Availability and Public Access to High Speed Broadband Internet”; and

WHEREAS, The City of Nibley has historically ensured access to essential services by providing those services that were not offered by the private sector at a reasonable and competitive cost. These services include domestic water, sewer, streets and roads as well as other important services; and

WHEREAS, lack of access to the internet and barriers to adoption of internet service were highlighted and exacerbated by temporary closures to combat the spread of COVID-19; and

WHEREAS, inequities in internet access and affordability and adoption can lead to disparate outcomes during a crisis, such as reduced access to relief programs for individuals and small neighborhood businesses and barriers preventing students from participating in remote learning; and

WHEREAS, several cities across Utah including, but not limited to, Providence, Spanish Fork, and Brigham City have attempted to implement municipal broadband and other dramatic increases in internet access and adoption with variable success due to various constraints and can therefore provide lessons for Nibley City; and

WHEREAS, the City believes it is vital to equitably expand affordable and reliable access to broadband internet service to all its residents in a sustainable manner;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NIBLEY THAT:

1. The City Council of the City of Nibley supports the application to the Utah Broadband Access Grant for the deployment of fiber to the premise to every location in Nibley City.
2. The City will work through a public private partnership with Providence City, Nibley City, and STRATA Networks to make application to the grant.
3. Application to the Utah Broadband Access Grant does not put Nibley City under any funding obligations.
4. Once grant funding has been awarded, City staff will work with the City Council to present all appropriate actions that need to be taken.

ADOPTED THIS ____ day of _____, 2021 in the City of Nibley, Cache County, Utah.

Shaun Dustin, Mayor

ATTEST:

Cheryl Bodily, Recorder

Agenda Item #8

Description	Discussion & Consideration – Interlocal Boundary and Future Annexation Area Agreement Between Nibley City and Hyrum City
Presenter	Justin Maughan, City Manager
Recommendation	Move to approve Interlocal Boundary and Future Annexation Area Agreement Between Nibley City and Hyrum City, for first reading.
Reviewed By	Mayor, City Manager

Background:

As a result of the impact from Logan Cities zoning choices on Nibley's northern border, Mayor Dustin reached out to Hyrum about a possible agreement to avoid a similar situation. The goals of the agreement would be to limit Developer's ability to pit the Cities against each other, and to establish similar zoning regulations, and to set a logical and reasonable boundary between the two Cities. This draft was written by Nibley City Attorney. It has been sent to Hyrum for their review as well.

BOUNDARY AND FUTURE ANNEXATION AREA AGREEMENT

THIS BOUNDARY AND FUTURE ANNEXATION AREA INTERLOCAL COOPERATION AGREEMENT (the “**Agreement**”), is made and entered into by and between NIBLEY CITY, a Utah municipality, (“**Nibley**”), and HYRUM CITY, a Utah municipality (“**Hyrum**”), collectively referred to as “**Parties**” or individually as “**Party**.”

RECITALS

- A. Pursuant to the Utah Interlocal Cooperation Act, Title 11, Chapter 13 of the Utah Code, the Parties are each authorized to enter into mutually advantageous agreements for joint or cooperative action.
- B. Each Party has adopted annexation policy plans that designate certain property outside of the Party’s boundaries as eligible for future annexation, described as expansion areas, according to the procedures set forth in Title 10, Chapter 2, Part 4 of the Utah Code.
- C. Pursuant to Utah Code § 10-2-401(6), Utah municipalities are authorized to negotiate and cooperate with each with respect to defining each municipality’s expansion area for future annexation.
- D. The Parties desire to avoid conflicts between their annexation policy plans and expansion areas and to reach a mutually beneficial understanding regarding the potential zoning, uses, and annexation of certain areas that that are adjacent to each Party.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained hereafter, the Parties hereto agree as follows:

- 1. **Purpose of Agreement.** The purpose of this Agreement is to establish the understanding of the Parties regarding the location and boundary of each Party’s future annexation expansion areas, as well as potential uses and zoning that may be allowed in such areas. Nothing in this Agreement shall modify or adjust the existing boundaries of either Party.
- 2. **Legislative Power.**
 - a. The Parties are municipalities and political subdivisions of the State of Utah. Each Party has authority to adopt and pursue policies that best serve the interests of their residents.
 - b. This Agreement represents the Parties’ current mutual intent and policy with respect to expansion areas and future annexation decisions and zoning decisions regarding those areas. This Agreement is intended to serve as a guide and a statement of policy that will inform future legislative decisions, but the Agreement does not limit the legislative authority of either Party.
 - c. Subject to the above, the Parties agree to pursue amendments and changes to their respective annexation policy plans, expansion areas, ordinances, and regulations to reflect the terms of this Agreement.

3. **Expansion Areas.**

- a. The Parties agree to use 4400 South as the boundary of the Parties' respective expansion areas, with 4400 South serving as the north boundary of Hyrum's expansion area and the south boundary of Nibley's expansion area, as shown in the attached **Exhibit A**.
- b. Each Party agrees to not annex nor to encourage, entertain, or accept a petition for annexation of any property that is located on the other Party's side of 4400 South without the prior written consent of the other Party.
- c. Consent shall not be unreasonably withheld if it appears to the City Council of the Party whose consent is required that the city to whom the petitioning property owner wishes to be annexed can reasonably provide services to the property without adversely affecting existing, planned, or potential public spaces and public services of the consenting Party, and the property will be developed in a manner consistent with this Agreement.
- d. Annexations that border 4400 South shall extend to the centerline of 4400 South, or as otherwise required by Cache County.

4. **Zoning and Property Use.**

- a. The Parties agree to establish compatible zoning and land use regulations for property that is adjacent to 4400 South, in order to avoid discrepancies between use types, neighborhood configurations, and undue impacts on each other's public spaces and services.
- b. The Parties agree that properties within **660 feet** of 4400 South should be zoned for **agricultural, residential, or mixed agricultural/residential/commercial uses** and have a maximum density of **eight equivalent residential units (ERU) per acre**, unless a higher density is authorized by the other Party in writing.
- c. Parks, trails, and open spaces should be provided or required as part of any development of property adjacent to 4400 South to avoid undue impact on one Party's public spaces and services, to facilitate compatible neighborhoods, and to provide interconnectivity between the cities and their residents.
- d. Industrial or manufacturing uses shall not be located within **660 feet** of 4400 South.

5. **Notice.**

- a. The Parties agree to provide notice to each other, or to the board established in Section 6, regarding any annexation petition, zone change, or land use/development application that will affect the areas and properties described herein. The notice shall be in writing and be provided at least 14 days in advance of the first public meeting or public hearing at which the matter may be considered.
- b. A Party's compliance with notice requirements established under Utah State Law shall satisfy this section if such requirements provide require notice to be specifically provided to the other Party. Publication of notice on a website or newspaper is insufficient.

6. **Administration of Agreement.**

- a. The Parties to this Agreement do not contemplate or intend to establish a separate legal entity under the terms of this Agreement. The Parties agree that this Agreement does not anticipate or provide for any organizational changes in or to the Parties.
- b. Pursuant to Utah Code § 11-13-207, the administration of this Agreement shall be by way of a joint board consisting of representatives from each Party. The number and makeup of the board shall be determined by the parties, and may be modified or changed from time to time, provided that each Party shall have equal representation. The initial board shall consist of each Party's mayor, city manager or planner, and one representative from the respective Party's City Council. The board shall not have authority to make final decisions regarding public policy or public funds, but shall function to inform, recommend, and coordinate actions and policies between the Parties pursuant to this Agreement.
- c. Unless otherwise agreed to, each Party shall keep their own respective books and records related to this Agreement in accordance with applicable laws and regulations. Each Party shall be entitled to review and inspect all books and records related to this Agreement during business hours upon request and reasonable notice.

7. **Real and Personal Property.**

- a. The Parties agree that they will not acquire, hold, or dispose of any real property pursuant to this Agreement. At all times and upon termination of this Agreement, all real property shall remain the property of the Party that acquired it.
- b. The Parties agree that they will not acquire, hold, and dispose of any personal property except as necessary to carry out the terms of this Agreement. At all times and upon termination of this Agreement, all personal property shall remain the property of the Party that acquired it.

8. **Effective Date and Term.**

- a. The Effective Date of this Agreement shall be the date all conditions of approval provided in Section 10 of this Agreement have been satisfied ("**Effective Date**").
- b. The term of this Agreement shall be from the Effective Date up through and including December 31, 2031, unless terminated or extended as set forth in Section 9.

9. **Termination.**

- a. This Agreement shall continue in effect until:
 - i. The Parties mutually consent in writing to terminate the Agreement;
 - ii. Either Party elects to terminate the Agreement, with or without cause, by providing the other Party ninety (90) days' written notice; or

- iii. The term of the Agreement expires.
- b. This Agreement may be extended by the mutual, written consent of the Parties, with or without written amendments, but in no event shall the term of this Agreement extend beyond fifty (50) years.

10. **Conditions of Approval.**

- a. This Agreement is conditioned upon each of the following:
- b. The approval and adoption of the Agreement by resolution of the legislative body of each Party in accordance with the Utah Interlocal Cooperation Act, Title 11, Chapter 13, of the Utah Code;
- c. The written approval of the authorized attorney of each Party in accordance with the Utah Interlocal Cooperation Act, Title 11, Chapter 13, of the Utah Code.

11. **Amendments.** The terms of this Agreement may not be amended, changed, modified, or altered except by an instrument in writing authorized and executed by each Party pursuant to the requirements of the Utah Interlocal Cooperation Act.

12. **Authorization and Filing.** The individuals executing this Agreement on behalf of the parties confirm that they are the duly authorized representatives of the parties and are lawfully enabled to execute this Agreement on behalf of the parties. Each Party shall be responsible for the timely submission, filing, or recording of the Agreement and any subsequent amendment or termination thereof with the appropriate governmental or regulatory offices, in the proper form and format as required by law.

13. **Governing Law, Jurisdiction, and Venue.** This Agreement and all claims or causes of action arising therefrom shall be construed and governed by and enforced in accordance with the laws of the State of Utah, including its statutes of limitation. Any dispute, claim, or cause of action regarding the interpretation or application of this Agreement shall be brought and maintained in the courts of the State of Utah, Cache County, Utah, which courts shall have jurisdiction over this Agreement and the Parties thereto.

14. **Immunity.** By entering into this Agreement, the Parties do not waive any governmental or sovereign immunity. Each Party specifically retains all immunities and defenses available to it as a sovereign or governmental entity pursuant to state and federal law, including the Utah Governmental Immunity Act. Designations of venue, choice of law, insurance and indemnification conditions, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign or governmental immunity.

IN WITNESS WHEREOF, the Parties have caused their proper and duly authorized officers to execute and deliver this Agreement.

For Nibley City

Signature: _____

Name: _____

Title: _____

Attest:

Recorder: _____

Attorney Approval as to Form and
Compatibility with Law

Attorney: _____

For Hyrum City

Signature: _____

Name: _____

Title: _____

Attest:

Recorder: _____

Attorney Approval as to Form and
Compatibility with Law

Attorney: _____

Agenda Item #9

Description	Discussion & Consideration – Interlocal Agreement Between Cache County and the City of Nibley for Fire Inspections for Businesses in Nibley
Presenter	Justin Maughan, City Manager
Recommendation	Move to approve the Interlocal Agreement Between Cache County and the City of Nibley for Fire Inspections for Businesses in Nibley.
Reviewed By	Mayor, City Manager, City Attorney, City Treasurer

Background:

As part of receiving or renewing a business license in Nibley, commercial businesses are required to receive an annual fire inspection. Nibley has historically contracted with the Cache County Fire Marshall to conduct these inspections. This agreement continues that practice for next year. The cost for the fire inspections are passed on to the business owners at a rate of \$45 per hour. Most inspections are billed at less than 1 hour, with many of them being 15 min. This rate is up from last year, which was billed at \$30 per hour.

AN INTERLOCAL AGREEMENT BETWEEN

CACHE COUNTY

AND THE

CITY OF NIBLEY

FIRE INSPECTIONS FOR BUSINESSES IN NIBLEY

This AGREEMENT is made and entered into pursuant to Section 11-13-1, Utah Code Annotated, 1953, as amended, commonly referred to as the Inter-local Cooperation Act, by and between Cache County, a body corporate and politic of the State of Utah, hereinafter referred to as "COUNTY," AND City of Nibley, a municipal corporation of the State of Utah, hereinafter referred to as "CITY."

WITNESSETH:

WHEREAS, the CITY is desirous of contracting with the COUNTY for the performance of the hereinafter described fire code enforcement in Nibley within its boundaries by the County of Cache through the Cache County Fire District; and

WHEREAS, the CITY and the COUNTY have determined that it is mutually advantageous to each party to enter into this AGREEMENT; and

WHEREAS, it is anticipated that the services provided will be compensated by the CITY on a cost basis as hereinafter set forth and the respective entities have determined and agreed that the said amount is a reasonable, fair and adequate compensation for the providing of such services.

NOW, THEREFORE, in consideration of the promises and in compliance with and pursuant to the terms and provisions of the inter-local Cooperation Act as herein above set forth, the parties hereby agree as follows:

1. The Cache County Fire District agrees to perform the following code enforcement actions within the corporate limits of the city of Nibley, to the extent and in the manner hereinafter set forth.
 - a. Annual inspections of Industrial, Commercial, Public, and Institutional Buildings
 - b. Review of subdivision plats
 - c. Review of applicable proposed Nibley City Code and Design Standards
 - d. Review of Industrial, Commercial, Public, and Institutional building permits and site plans
 - e. Review and advise on other land use application as needed
 - f. Advise on all other fire code related issues
2. The rendition of such services, the standards of performance, the discipline of fire marshals and other fire staff, and other matters incident to the performance of such services and the control of personnel so employed shall remain in the COUNTY. In the event of a dispute between the

parties as to the extent of duties and functions to be rendered hereunder, or the minimum level or manner of performance of such services, the determination thereof made by the Cache County Fire Chief of the COUNTY shall be final and conclusive as between the parties hereto.

3. Without limiting, and in addition to any and all other legal and equitable remedies, the CITY's Mayor and Council or other representatives, shall have an opportunity to meet and confer with the Cache County Fire Chief and/or his designated contract representative to discuss any problems arising from its performance, the types of fire marshals and related employees who will be performing services under this AGREEMENT, and the anticipated costs for renewing this contract for any successive period(s).
4. It is agreed that the Cache County Fire Marshall will perform fire inspections for the businesses in Nibley in conformance with all local, state and federal laws as far as they are applicable, and city ordinances as follows:
 - A. It is agreed that the cost per hour for municipal type fire inspections shall be determined by the fire marshal and the number of hours per inspection will be determined case-by-case. The costs and hours of service are detailed in Exhibit A attached.
 - B. The COUNTY will provide an inspection report for each business to the CITY.
 - C. The COUNTY will maintain, at the minimum, the following records and provide annual reports of those records to the CITY pursuant to this agreement:
 - i. The number and type of fire inspections for businesses.
 - ii. The number of hours spent conducting those inspections.
 - iii. The total number of hours for which the CITY must reimburse the COUNTY.
5. For the purpose of performing the services provided herein, the COUNTY shall furnish all necessary labor, administration, equipment, uniforms, insignia, and other equipment necessary and incident to a modern fire district.
6. It is agreed that in all instances where special supplies, stationary, notices, forms, and the like must be issued in the name of the CITY, the same shall be supplied by the CITY at its own expense.
7. For the purpose of performing the service functions pursuant to this AGREEMENT;
 - A. For the purpose of giving official status of the performance thereof and for purposes of liability, every COUNTY fire marshal and related-employees engaged in performing any such service and function shall be deemed to be officers or employees of the CITY.
 - B. All COUNTY fire marshals and related employees employed by the COUNTY to perform duties under the terms of this AGREEMENT shall be COUNTY employees and shall have no right to any CITY pension, civil service, or any other CITY benefits for services provided hereunder.
 - C. The COUNTY fire marshals and related employees to be provided under the terms of this AGREEMENT shall be appointed by the Cache County Fire Chief under its normal rules and practices of selection and hiring.
8. The CITY shall be responsible for all damages to persons or property that occurs as a result of the negligence or fault of the CITY in connection with the performance of this Agreement. The

CITY shall indemnify and save the COUNTY free and harmless from all claims that arise as a result of the negligence or fault of the CITY, its officers, agents or employees.

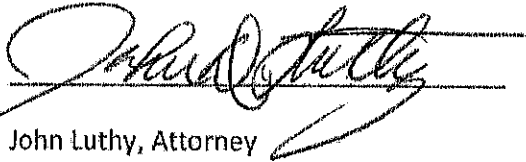
9. The CITY, to the fullest extent allowed by law, shall indemnify, hold harmless, and defend the COUNTY and its Fire Marshalls, related employees, Fire Chief, Executive, directors, officers, agents, and representatives, from and against any and all costs and expenses (including, without limitation, court costs and attorneys' fees), claims, actions, demands, damages, losses and liabilities, incurred by, imposed upon or claimed to be imposed upon the COUNTY, and its Fire Marshalls, related employees, Fire Chief, Executive, and directors, officers, agents, and representatives, which result from arise out of or are otherwise attributable, in any way, to the COUNTY Fire Marshalls, related employees, or Fire Chief, in performing fire inspections for the CITY.
10. Except as herein otherwise specified, the CITY shall not be liable for compensation or indemnity to any COUNTY employee for injury or sickness arising out of his or her employment, and the COUNTY hereby agrees to hold harmless the CITY against any such claim.
11. Unless sooner terminated as provided for herein, this AGREEMENT shall be effective the 1st day in the month of November, in the year of 2021, and shall run for a one (1) year period. With the consent of the Cache County Council and the Nibley City Council, this AGREEMENT may be renewable for successive one (1) year periods. The COUNTY Fire Chief shall be the administrator of this AGREEMENT. In the event the CITY desires to renew this AGREEMENT for any succeeding one (1) year period, the CITY Council, not later than October 1st next preceding the expiration date of this AGREEMENT, shall notify the COUNTY Fire Chief that it wishes to renew the same, whereupon the COUNTY Council, not later than October 15, may notify said CITY Council of its determination concerning such renewal together with any readjusted rates as provided in paragraph 14 below; otherwise, such agreement shall finally terminate at the end of such one (1) year period. Notwithstanding the provision of this paragraph, either party may terminate this AGREEMENT at any time by giving sixty (60) days prior written notice to the other party.
12. The CITY agrees to pay the amount set forth in Exhibit A, which is attached hereto and incorporated herein by reference, for the services provided pursuant to this AGREEMENT. The rates in Exhibit A may be readjusted to be effective November 1st of each year, if this agreement is renewed to reflect the cost of such services as determined by the COUNTY Fire Chief.
13. The CITY agrees to remit the contract amount to the Cache County Auditor, 179 North Main Street, Logan, Utah, 84321, prior to January 1, ~~2019~~ ²⁰²³, the beginning of the Cache County's fiscal year. If such payment is not remitted to the County Auditor's Office when due, the COUNTY is entitled to recover interest thereon at the rate of one (1) percent or the legal rate if the latter is higher per calendar month in which the services were rendered with the right to terminate the contract thereafter.

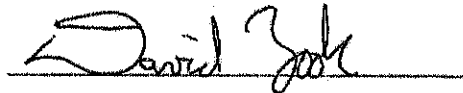
IN WITNESS WHEREOF, the CITY of Nibley, by approval of the Nibley City council, caused this AGREEMENT to be signed by its Mayor and attested thereto by its Clerk, and the County of Cache, by approval of the County Council has caused this AGREEMENT to be signed by the County Executive

and Attested thereto by its Clerk and keeper of the County Seal, all on the day and year appearing below their respective signatures.

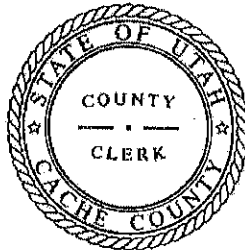
Cache County

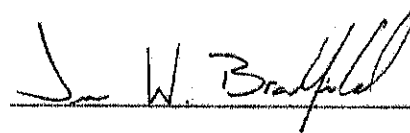
Approved as to form and as compatible with state law:


John Luthy, Attorney


David Zook, County Executive

ATTEST: (seal)




Clerk

City of Nibley

Approved as to form and as compatible with state law:

Legal Counsel

Mayor

Clerk

EXHIBIT A

This exhibit details the price per hour of \$45 to perform fire inspections for Nibley City businesses, each inspection varying in time as needed and as deemed reasonable. The time frame of the contract will be from November 1 2021, through October 31, 2022.