



NIBLEY CITY COUNCIL MEETING AGENDA

Thursday, August 11, 2022 – 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 July 14, 2022, Meeting Minutes and the Current Agenda (Chair)
4. Planning Commission Report
5. Public Comment Period¹ (Chair)
6. **Presentation** – Children’s Theater Report – Emily Rigby/Marianne Hale
7. **Presentation** – Housing Crisis Task Force – Shaun Dustin
8. **Discussion and Consideration** – Resolution 22-21 2021 Municipal Wastewater Planning Program Report (First Reading)
9. **Discussion and Consideration** – Ordinance 22-14 – Amending NCC 11.02.040 Parking Regulations to Create, Sign and Enforce a “No School Drop Off” Zone (First Reading)
10. **Discussion and Consideration** – Ordinance 22-15 – Amending NCC 11.02.050 Driving Restrictions to Eliminate the Use of Trade-Marked Braking Systems (First Reading)
11. **Discussion & Consideration** – Millville letter of support for Cache Council of Governments (CCOG) Project
12. Council and Staff Report

Adjourn to Executive Session: To discuss Pending or Reasonably Imminent Litigation, 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.



**Nibley City Council
Agenda Report for
August 11, 2022**

Agenda Item #6

Description	Presentation – Children's Theatre Report
Presenter	Emily Rigby/Marianne Hale
Recommendation	Receive the report and provide feedback
Reviewed By	Recreation Director

Background

Emily Rigby, Nibley Childrens Theater Director will present information about how the play went this year, issue's that were overcome, and answer any questions the Council may have about the play and theater program.

Agenda Item #7

Description	Presentation – Housing Crisis Task Force
Presenter	Shaun Dustin
Recommendation	Receive the report and provide feedback
Reviewed By	Mayor, City Manager, City Planner

Background

Working alongside community and industry leaders, Cache County Executive David Zook formed a Housing Crisis Task Force two months ago to tackle serious obstacles to housing in Cache County. The task force is composed of stakeholders representing a broad range of perspectives in the housing market. The group had its kickoff meeting on April 20 and was tasked with developing a report outlining recommendations to improve the situation, as well as aspects of the housing crisis that local governments and industry professionals can directly influence. The Task Force met June 21 to present their recommendations to Mr. Zook, who then presented their findings at the Cache Summit, Thursday, June 23. Former Mayor Shaun Dustin served on the task force, and has been asked by Mr. Zook to come to Nibley City Council to present their report.

Agenda Item #8

Description	Discussion & Consideration – Resolution 22-21: 2021 Municipal Wastewater Planning Program Report (First Reading)
Presenter	Justin Maughan, City Manager
Recommendation	Move to approve Resolution 22-21: 2021 Municipal Wastewater Planning Program Report, and waive the second reading.
Reviewed By	City Manager, City Engineer, Water and Wastewater Division

Background

The Utah State Division of Environmental Quality requires municipalities to complete a survey each year to report on the status of the City's wastewater system. The questions in the survey are focused on the financial health, planning and maintenance of the system.

The Sewer Department's finances are strong, and the City does not anticipate any major expenses for the collection system in the immediate future. However, that could change quickly as development occurs. It is the opinion of the Public Works Department that the collection system itself is in great shape. Nibley has been able to avoid many of the problems that other cities face, primarily due to the young age of Nibley's sewer system. Staff routinely inspect and clean the system.

The Sewer Department will be implementing a new tool this year to help us isolate and pinpoint problem areas in the system. This will allow the department to focus on areas that need cleaning and maintenance, rather than blindly going around the City and trying to clean lines.

RESOLUTION 22-21

2021 MUNICIPAL WASTEWATER PLANNING PROGRAM RESOLUTION

WHEREAS, the Utah Division of Water Quality requests that municipalities annually review wastewater planning; and

WHEREAS, Nibley City has completed and reviewed the attached Municipal Wastewater Planning Program Report for 2021; and

WHEREAS, Nibley City has taken all appropriate actions necessary to maintain effluent requirements contained in the UPDES Permit:

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

The attached Municipal Wastewater Planning Program Report for 2021 is hereby accepted.

Dated this 11 day of August, 2022.

Larry Jacobsen, Mayor

ATTEST: _____
Cheryl Bodily, Deputy City Recorder

Municipal Wastewater Planning Program (MWPP)
Annual Report
for the year ending 2021
NIBLEY CITY

Thank you for filling out the requested information. Please let DWQ know when it is approved by the Council.

Please download a copy of your form by clicking "Download PDF" below.

Below is a summary of your responses

[Download PDF](#)

SUBMIT BY APRIL 15, 2022

Are you the person responsible for completing this report for your organization?

☒ **Yes**

☐ **No**

This is the current information recorded for your facility:

Facility Name:	NIBLEY CITY
Contact - First Name:	Darren
Contact - Last Name:	Farer
Contact - Title	City Engineer
Contact - Email:	darren.farer@nibleycity.com

Contact - Phone:	435-255-7078
Contact - Email:	darren@nibleycity.com

Is this information above complete and correct?

☐ Yes

☒ **No**

Please enter in the correct information

WARNING: If you change Facility Name, you will no longer have access to this form upon clicking Save & Continue. DWQ will resend link with updated Facility Name to person indicated below.

Facility Name

NIBLEY CITY

Contact - First Name

Darren

Contact - Last
Name

Farar

Contact Person's Title

City Engineer

Phone

435-255-7078

Email

darren@nibleycity.com

Your wastewater system is described as Collection & Financial:

Classification: COLLECTION

Grade: II

(if applicable)

Classification: -

Grade: -

Is this correct?

WARNING: If you select 'no', you will no longer have access to this form upon clicking Save & Continue. DWQ will update the information and contact you again.

☒ Yes

☐ No

Click on a link below to view a previous year's examples of sections in the survey:

(Your wastewater system is described as Collection & Financial)

[MWPP Collection System.pdf](#)

[MWPP Discharging Lagoon.pdf](#)

[MWPP Financial Evaluation.pdf](#)

[MWPP Mechanical Plant.pdf](#)

[MWPP Non-Discharging Lagoon.pdf](#)

Will multiple people be required to fill out this form?

☐ Yes

☒ No

Financial Evaluation Section

Form completed by:

Justin Maughan

Part I: GENERAL QUESTIONS

Yes

No

Are sewer revenues maintained in a dedicated purpose enterprise/district account?

Yes



No



Are you collecting 95% or more of your anticipated sewer revenue?

Yes



No



Are Debt Service Reserve Fund⁶ requirements being met?



What was the annual average User Charge¹⁶ for 2021?

53.00

Do you have a water and/or sewer customer assistance program* (CAP)?

☐ Yes

☒ No

Part II: OPERATING REVENUES AND RESERVES

Are property taxes or other assessments applied to the sewer systems¹⁵?

Yes



No



Are sewer revenues¹⁴ sufficient to cover operations & maintenance costs⁹, and repair & replacement costs¹² (OM&R) at this time?

Yes



No



replacement costs (currently at this time:

	Yes	No
Are projected sewer revenues sufficient to cover OM&R costs for the <i>next five years</i> ?	☒	☐
Does the sewer system have sufficient staff to provide proper OM&R?	☒	☐
Has a repair and replacement sinking fund ¹³ been established for the sewer system?	☒	☐
Is the repair & replacement sinking fund sufficient to meet anticipated needs?	☒	☐

Part III: CAPITAL IMPROVEMENTS REVENUES AND RESERVES

	Yes	No
Are sewer revenues sufficient to cover all costs of current capital improvements ³ projects?	☒	☐
Has a Capital Improvements Reserve Fund ⁴ been established to provide for anticipated capital improvement projects?	☒	☐
Are projected Capital Improvements Reserve Funds sufficient for the <i>next five years</i> ?	☒	☐
Are projected Capital Improvements Reserve Funds sufficient for the <i>next ten years</i> ?	☐	☒
Are projected Capital Improvements Reserve Funds sufficient for the <i>next twenty years</i> ?	☐	☒

Part IV: FISCAL SUSTAINABILITY REVIEW

	Yes	No
Have you completed a Rate Study ¹¹ within the last five years?	☒	☐
Do you charge Impact fees ⁸ ?	☒	☐

Do you charge impact fees?

☒ Yes

☐ No

2021 Impact Fee (if not a flat fee, use average of all collected fees) =

\$1725.00

Yes

No

Have you completed an Impact Fee Study in accordance with UCA 11-36a-3 within the last five years?

☐

☒

Do you maintain a Plan of Operations¹⁰?

☒

☐

Have you updated your Capital Facility Plan² within the last five years?

☒

☐

Yes

No

Do you use an Asset Management¹ system for your sewer systems?

☐

☒

Yes

No

Do you know the total replacement cost of your sewer system capital assets?

☐

☒

Yes

No

Do you fund sewer system capital improvements annually with sewer revenues at 2% or more of the total replacement cost?

Yes
☐

No
☒

What is the sewer/treatment system annual asset renewal* cost as a percentage of its total replacement cost?

☐

☒

What is the sewer/treatment system annual asset renewal* cost as a percentage of its total replacement cost?

Part V: PROJECTED CAPITAL INVESTMENT COSTS

Cost of projected capital improvements

	Cost	Purpose of Improvements		
	Please enter a valid numerical value	Replace/Restore	New Technology	Increase Capacity
2022	0	☐	☐	☐
2022 thru 2026	0	☐	☐	☐
2027 thru 2031	3,053,000	☒	☐	☒
2032 thru 2036		☐	☐	☐
2037 thru 2041	6,853,000	☐	☐	☒

This is the end of the Financial questions

To the best of my knowledge, the Financial section is completed and accurate.

☒ Yes

Collections System Section

Form completed by:

May Receive Continuing Education /units (CEUs)

Darren Farar

Part I: SYSTEM DESCRIPTION

What is the largest diameter pipe in the collection system (diameter in inches)?

21

What is the average depth of the collection system (in feet)?

12

What is the total length of sewer pipe in the system (length in miles)?

35

How many lift/pump stations are in the collection system?

3

What is the largest capacity lift/pump station in the collection system (design capacity in gallons per minute)?

1688

Do seasonal daily peak flows exceed the average peak daily flow by 100 percent or more?

☐ Yes

☒ No

What year was your collection system first constructed (approximately)?

2003

In what year was the largest diameter sewer pipe in the collection system constructed, replaced or renewed? (If more than one, cite the oldest)

2003

PART II: DISCHARGES

How many days last year was there a sewage bypass, overflow or basement flooding in the system due to rain or snowmelt?

0

How many days last year was there a sewage bypass, overflow or basement flooding due to equipment failure (except plugged laterals)?

0

The Utah Sewer Management Program defines two classes of sanitary sewer overflows (SSOs):

Class 1- a Significant SSO means a SSO or backup that is not caused by a private lateral obstruction or problem that:

(a) affects more than five private structures;

(b) affects one or more public, commercial or industrial structure(s);

- (c) may result in a public health risk to the general public;
- (d) has a spill volume that exceeds 5,000 gallons, excluding those in single private structures; or
- (e) discharges to Waters of the state.

Class 2 - a Non-Significant SSO means a SSO or backup that is not caused by a private lateral obstruction or problem that does not meet the Class 1 SSO criteria.

Below include the number of SSOs that occurred in year: 2021

Number

Number of Class 1 SSOs in Calendar year

0

Number of Class 2 SSOs in Calendar year

0

Please indicate what caused the SSO(s) in the previous question.

Not Applicable

Please specify whether the SSOs were caused by contract or tributary community, etc.

Not Applicable

Part III: NEW DEVELOPMENT

Did an industry or other development enter the community or expand production in the past two years, such that flow or wastewater loadings to the sewerage system increased by 10% or more?

☐ Yes

☒ **No**

Are new developments (industrial, commercial, or residential) anticipated in the next 2 - 3 years that will increase flow or BOD5 loadings to the sewerage system by 25% or more?

☐ Yes

☒ **No**

Number of new commercial/industrial connections in the last year

0

Number of new residential sewer connections added in the last year

82

Equivalent residential connections⁷ served

2129

Part IV: OPERATOR CERTIFICATION

How many collection system operators do you employ?

5

Approximate population served

7300

State of Utah Administrative Rules requires all public system operators

considered to be in Direct Responsible Charge (DRC) to be appropriately certified at least at the Facility's Grade.

List the designated Chief Operator/DRC for the Collection System below:

	Name First and Last Name	Grade	Email Please enter full email address
Chief Operator/DRC	Jared Pratt	IV 	jared@nibleycity.com

List all other Collection System operators with DRC responsibilities in the field, by certification grade, separate names by commas:

	Name separate by comma
SLS ¹⁷ Grade I:	
Collection Grade I:	
Collection Grade II:	
Collection Grade III:	Steve Eliason
Collection Grade IV:	Jared Pratt

List all other Collection System operators by certification grade, separate names by commas:

	Name separate by comma
SLS ¹⁷ Grade I:	
Collection Grade I:	
Collection Grade II:	Rod Elwood
Collection Grade III:	Steve Eliason
Collection Grade IV:	Justin Maughan; Jared Pratt; Darren Farar

Is/are your collection DRC operator(s) currently certified at the appropriate grade for this facility?

☒ Yes

☐ No

Part V: FACILITY MAINTENANCE

	Yes	No
Have you implemented a preventative maintenance program for your collection system?	☒	☐
Have you updated the collection system operations and maintenance manual within the past 5 years?	☐	☒
Do you have a written emergency response plan for sewer systems?	☒	☐
Do you have a written safety plan for sewer systems?	☐	☒
Is the entire collections system TV inspected at least every 5 years?	☐	☒
Is at least 85% of the collections system mapped in GIS?	☒	☐

Part VI: SSMP EVALUATION

	Yes	No
Has your system completed a Sewer System Management Plan (SSMP)?	☒	☐
Has the SSMP been adopted by the	☒	☐

permittee's governing body at a public meeting?

☒ Yes

☐ No

Has the completed SSMP been public noticed?

☒

☐

During the annual assessment of the SSMP, were any adjustments needed based on the performance of the plan?

☐

☒

Date of Public Notice

08/05/2021

During 2021, was any part of the SSMP audited as part of the five year audit?

☒ **Yes**

☐ No

If yes, what part of the SSMP was audited and were changes made to the SSMP as a result of the audit?

No changes were identified for current system conditions. Changes were identified for buildout of the system.

Have you completed a System Evaluation and Capacity Assurance Plan (SECAP) as defined by the Utah Sewer Management Program?

☐ Yes

☒ **No**

Part VII: NARRATIVE EVALUATION

This section should be completed with the system operators.

Describe the physical condition of the sewerage system: (lift stations, etc. included)

In good shape, relatively new system.

What sewerage system capital improvements³ does the utility need to implement in the next 10 years?

Regional lift station for the south west area of town.

What sewerage system problems, other than plugging, have you had over the last year?

Failure of a ball checks valve, pump replacements, infiltration issues, meter calibration issues, miscellaneous lift station repairs.

Is your utility currently preparing or updating its capital facilities plan²?

☒ **Yes**

☐ No

Does the municipality/district pay for the continuing education expenses of operators?

☒ **100% Covered**

☐ Partially cover

☐ Does not pay

Is there a written policy regarding continuing education and training for wastewater operators?

☒ **Yes**

☐ No

Any additional comments?

Education and training is yearly included in our Council approved budget.

This is the end of the Collections System questions

To the best of my knowledge, the Collections System section is completed and accurate.

☒ Yes

I have reviewed this report and to the best of my knowledge the information provided in this report is correct.

 clear

Has this been adopted by the council? If no, what date will it be presented to the council?

☐ Yes

☒ No

What date will it be presented to the council?

Date format ex. mm/dd/yyyy

06/23/2022

Please login

Please log in.

Email

darren@nibleycity.com

PIN

....

NOTE: This questionnaire has been compiled for your benefit to assist you in evaluating the technical and financial needs of your wastewater systems. Completion of the collection section meets the annual reporting requirement for the USMP. If you received financial assistance from the Water Quality Board, annual submittal of this report is a condition of that assistance. Please answer questions as accurately as possible to give you the best evaluation of your facility. If you need assistance, please send an email to wqinfodata@utah.gov and we will contact you as soon as possible. You may also visit our [Frequently Asked Questions](#) page.

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Agenda Item #9

Description	Discussion & Consideration – Ordinance 22-14: Amending NCC 11.02.040 Parking Regulations to Create and Enforce a “No Schol Drop Off” Zone (First Reading)
Presenter	Justin Maughan, City Manager
Recommendation	Move to approve Ordinance 22-14: Amending NCC 11.02.040 Parking Regulations to Create and Enforce a “No Schol Drop Off” Zone and waive the second reading to accommodate the August 18 school start date.
Reviewed By	Mayor, City Manager, City Attorney

Background

City Staff have been working with Principal Robins at Heritage Elementary for a number of months trying to solve an issue of student safety out the back door of the school. Currently, students leave the back of the school on a sidewalk to a short stub road (3020 South) that ties onto 1000 West. Many parents have been picking their students up in this area, rather than the designate drop off zone in front of the school. This has caused concern for numerous residents, as well as the school and City staff. The short street becomes crowded quickly with pedestrians and moving cars. In addition, some students are having to cross 1000 West to be picked up on the west side of the roadway.

City Staff have met with the Principal and other school staff, the PTA, and concerned residents in the area to discuss potential solutions. Early in the school year, the City put out flyers to the parents and students that use the area asking them to only pick up students on the east side of the roadway. Late in the school year, a letter was sent by the school to ask parents to not use the area to pick up students, but rather come to the front of the school.

In discussing the issue with the Sherrif office and the City Attorney, City Staff decided to propose this ordinance change, to assist in achieving a greater level of safety for the students in the area. Staff felt this would address the student drop off issue, and not negatively impact the residents in the area’s ability to park in the street as they needed.

The area planned to be signed “No Student Drop Off”, is on 1000 West between 2980 South and 3200 South, both sides of the street, and the south side of 3200 South between 1000 West and 900 West.



ORDINANCE 22-14

**AMENDING NCC 11.02.040 PARKING REGULATIONS TO ALLOW FOR THE CREATION,
SIGNING AND ENFORCEMENT OF A “NO SCHOOL DROP OFF” ZONE**

WHEREAS, Nibley City is the home to three Elementary schools and hundreds of students who walk to those schools; and

WHEREAS, Nibley City desires to create as safe an environment as possible for the students.

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

1. The attached amendments to the referenced Nibley City Code section 11.02.040 be changed.
2. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS 11 DAY OF AUGUST, 2022.

Larry Jacobsen, Mayor

ATTEST: _____

Cheryl Bodily, City Recorder

11.02.040 Parking Regulations

1. Signs; Erection: The city council may authorize or direct any person employed by the city to erect or install any sign or traffic control device required to enforce the provisions of this chapter.
 1. The City Council may, by resolution designate placement of traffic control devices or signs referenced herein to the Public Works Director.
 2. It shall be unlawful for any person to park or leave standing on any public road, street, alley, or city property any vehicle, trailer, or other obstruction in violation of a duly installed sign or traffic control device.
2. Blocking Streets Or Highways: In addition to the parking provisions contained in the Utah traffic code, as adopted by the city, it shall be unlawful for any person to:
 1. Remain standing, laying or sitting on any street or highway in such a manner as to obstruct the free passage of vehicular or pedestrian traffic thereon.
 2. Willfully remain standing, laying or sitting on any street or highway in such manner for more than one minute after being requested to move by any police officer.
 3. Willfully remain on such street or highway in such manner as to obstruct the free passage of any person or vehicle into or out of any property abutting upon the street or highway or any property having access to such street or highway.
 4. Unlawful Parking:
3. Limited Parking:
 1. Parking At Curb: No motor vehicle shall be parked with the left side of the vehicle next to the curb, except on one-way streets. It shall be unlawful to stand or park any motor vehicle in a street other than parallel with the curb and with the two (2) right wheels of the vehicle within twelve inches (12") of the regularly established curb line, except on those streets which have been marked for angle parking; then vehicles shall be parked at the angle to the curb indicated by such marks.
 2. Vehicles For Sale: It shall be unlawful to park any vehicle on any street for the purpose of displaying it for sale, or to park any vehicle from which merchandise is peddled on any business street.
 3. Time Limit: Impoundment: It shall be unlawful for any person to park or leave standing on any public road, street, alley or city property any motor vehicle for forty eight (48) or more consecutive hours, and any vehicle so parked or left standing may be impounded or removed by the city's law enforcement agency. For purposes of impoundment and removal, the city's law enforcement agency may impound and remove any motor vehicle which reasonably appears to have remained unmoved for forty eight (48) consecutive hours. The cost of impoundment and removal shall be charged to the owner or any person who claims the impounded motor vehicle.
4. Limited Winter Parking: It shall be unlawful to park any vehicle, trailer or other obstruction on any street in the city between November 1 of each year and April 1 of the following year, for a period of time longer than thirty (30) minutes when loading, unloading or delivering property between the hours of twelve o'clock (12:00) midnight and six o'clock (6:00) A.M. This subsection shall not apply to doctors on house calls or vehicles used in the repair of utilities. For purposes of this subsection, a street shall be within the confines of the curb and gutter, except in those cases where no curb and gutter exists, a street shall be that area bounded by a line twenty feet (20') from the edge of the pavement or within the right of way lines, whichever is less.
5. School Drop Off or Pick Up Prohibited:
 1. It shall be unlawful for any person to park any vehicle or to drop off or pick up children of any age for the purpose of accessing school or educational facilities or property for any reason, in any area designated by signs or other traffic control device as prohibited areas.

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6. Penalty: Any person who violates this section shall be guilty of an infraction; and upon conviction, such person shall be subject to a civil penalty as listed on the current approved Consolidated Fee Schedule for each offense.

HISTORY

Adopted by Ord. 1977 Code Code §§ 11-341, 11-342, 11-344, 11-345 on 1/1/1977

Amended by Ord. 2002 Code on 1/1/2002

Amended by Ord. [14-05](#) on 8/21/2014

Amended by Ord. [20-21](#) on 11/12/2020

Amended by Ord. [22-02](#) on 1/27/2022

Corrected by Other. [Consolidated Fee Schedule 2022](#) on 1/27/2022

Agenda Item #10

Description	Discussion & Consideration – Ordinance 22-15: Amending NCC 11.02.050 Driving Restrictions to Eliminate the Use of Trade-Marked Braking Systems (First Reading)
Presenter	Justin Maughan, City Manager
Recommendation	Move to approve Ordinance 22 -15: Ordinance 22-15: Amending NCC 11.02.050 Driving Restrictions to Eliminate the Use of Trade-Marked Braking Systems and waive the second reading.
Reviewed By	Mayor, City Manager, City Attorney

Background

The City received a letter from Jacobs Manufacturing company, asking us to remove specific language referencing their product from our ordinance. Engine breaks, are a breaking system that uses the compression of the engine to slow the vehicle. These systems are commonly used on large semi and freight hauling vehicles. They are used to assist standard breaking systems that rely on friction brake pads similar to common passenger vehicles. The operator of the vehicle typically has the option to turn the engine brakes on and off, as they feel needed. The problem with compression breaking systems, is that they emit loud sounds that become an annoyance to residents in the area. Another common problem with engine breaks, is the many names that they have come to be know by. One of those common names, is the trade mark name brand, that we have been asked to remove from our ordinance.

The letter also requested that we change the wording on our signage. Staff feels that this change is not necessary at this time, but agrees with removing the trade mark name from the city ordinance.

ORDINANCE 22-15

**AMENDING NCC 11.02.050 DRIVING REGULATIONS, TO REMOVE REFERENCES TO THE
TRADE MARK JAKE BRAKE**

WHEREAS, Nibley City received correspondence from Jacobs Vehicle Systems, notifying the City of a trade mark infringement in the use of the phrase “Jake Brake”; and

WHEREAS, Nibley City desires to not infringe upon the use of that phrase.

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

1. The attached amendments to the referenced Nibley City Code section 11.02.050 be changed.
2. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS 11 DAY OF AUGUST, 2022.

Larry Jacobsen, Mayor

ATTEST: _____

Cheryl Bodily, City Recorder

11.02.050 Driving Regulations

1. Motor Vehicle Defined:
 1. The words "motor vehicle", as used in this title, shall be defined as every self-propelled device in, upon, or by which any person or property is or may be transported.
2. Proper Lookout Required: No person shall drive a motor vehicle within the corporate limits of the city in such a manner as to endanger life or property by failing to keep a safe and proper lookout for other traffic, objects or persons.
3. Reasonable Care Required When Driving: It shall be unlawful for any person to drive a motor vehicle without the care and caution of a reasonable, prudent person under the circumstances then and there existing, or in a manner so as to endanger or be likely to endanger any person or property.
4. Use Of Compression Release **Braking** Systems **Restricted**: It is unlawful for any person to use, operate or engage in any compression release engine **braking** system within Nibley City, which is designed to slow the speed of a motor vehicle by turning the engine into an air compressor. The use of such devices is allowed in emergency situations when the operator of the motor vehicle needs it for safe operation. Firetrucks and other emergency vehicles shall be exempt from the prohibitions of this subsection.
5. Penalty:
 1. Any person who violates this section shall be guilty of a class C misdemeanor; and upon conviction, such person shall be punished as provided in NCC 1.08.

HISTORY

Adopted by Ord. 10-03 4-1-2010 on 5/1/2010

Deleted: Or "**Jake Brake**s"

Deleted: (commonly referred to as a jacobs **brake**, **jake brake**, engine **brake** or compression **brake**).



July 14, 2022

Larry Jacobsen
Mayor
455 W. 3200 South
Nibley, UT 84321

Dear Mr. Jacobsen,

I am writing on behalf of Jacobs Vehicle Systems, Inc. ("Jacobs"). Jacobs has been made aware that the City of Nibley has enacted an ordinance and has erected signs specifically naming JAKE BRAKE®. The ordinance 11.02.050 Driving Regulations refers to Jake Brake as a common term. Such signs can be found at the city limits. Jacobs has been manufacturing vehicle retarding systems and related components for the truck market for more than sixty (60) years under its JAKE BRAKE® trademark. "Jake Brake®" is a brand name of vehicle retarders. It is not a generic term referring generally to truck engine brakes. Engine brakes are produced by a number of other companies other than Jacobs; including PacBrake® of Canada and TecBrake® of Mexico among others. The "Jake Brake®" engine brake is simply the most widely recognized brand in the industry.

The JAKE BRAKE® mark is well known in the industry and is federally registered for the goods and services listed in federal trademark Registration Nos. 2,864,614, 3,589,709, 3,635,162 and 3,663,312, copies of which we can provide. Any use of the name JAKE BRAKE® "in either the language of the ordinance or on any signs to be posted is strictly prohibited. This improper use of the "Jake Brake®" brand, threatens to seriously damage Jacobs and infringes Jacobs' sole rights to this valuable mark. Moreover, this usage may significantly weaken the mark, which could result in the diminution or "dilution" of its value and possibly loss of all Jacobs' rights in the mark.

In the past, Jacobs has moved swiftly to enjoin infringement and other misuse of the "Jake Brake®" and related marks. Should the "Jake Brake®" mark become generic through such misuse, it would lead to substantial liability. In addition, should your locality continue to post signs with our trademark; it could potentially violate other U.S. Federal laws and regulations, including transportation regulations and federal trademark laws.

While we understand many of the members of the public find loud engine brake noise to be undesirable we note that *properly muffled engines* should not produce an overly loud or undesirable sound. Jacobs requests that you not use our trademark in your noise reduction initiative, as this would represent an unfair use of our trade name. We request instead that your posted signs read "***No Improperly Muffled Engine Brakes***" or "***No Unmuffled use of Engine Brakes***". I have included additional materials regarding vehicle retarders in general and the federal emissions regulations and state laws that govern their proper use.

We are certain that having been apprised of this information the City of Nibley will respect Jacobs' rights in the JAKE BRAKE® mark and will use the mark properly in the future. We do not want our JAKE BRAKE® mark confused or diluted. Please contact me to inform us



Jacobs Vehicle Systems®

that you have removed any signs and modified your ordinance. If you or your staff have any questions regarding this letter or the additional materials, please do not hesitate to contact us. The Jacobs Vehicle Systems website, www.jacobsvehiclesystems.com also has information concerning these topics that you can refer to.

We appreciate your understanding in this matter.

Sincerely,

Heather Merrill, Esq
Attorney
Jacobs Vehicle Systems, Inc.
22 East Dudley Town Rd.
Bloomfield, CT 06002
Ph: 860-243-7604
Heather.merrill@jakebrake.com

Agenda Item #11

Description	Discussion & Consideration – Millville Letter of Support for CCOG Project
Presenter	Justin Maughan, City Manager
Recommendation	Move to express support of the Millville Letter of Support for CCOG Project
Reviewed By	Mayor, City Manager, City Attorney

Background

Millville City is requesting a letter of support from Nibley on their upcoming Cache Council of Governments Grant request. They are planning to request funds to assist them in covering costs, for engineering design of a roadway and bridge to extend west from their 300 South, across the Blacksmith Fork River, and tie onto a four legged intersection at 3200 South.

Mayor
Larry Jacobsen



Council Members
Kathryn Beus
Normal Larsen
Kay Sweeton
Tom Bernhardt
Nathan Laursen

Dear Cache Council of Governments:

Nibley City supports Millville City's COG grant application for a feasibility study and engineering design for a new road and bridge to connect Millville's 300 South to Nibley's 3200 South at the existing traffic signal on SR 165. This proposal would simplify access to SR 165 and implement a complete, four-legged intersection anticipated by Nibley City's Master Street Plan.

Nibley City believes the proposed study should include an assessment of the existing conditions, including an evaluation of the existing bridge on Mill Road (3100 South) to determine its efficacy and remaining useful life.

Respectfully,
The Nibley City Council

Larry Jacobsen, Mayor

SHEET INDEX	
1	COVER, LOCATION MAPS,
2	SHEET INDEX, LEGEND, GENERAL NOTES
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4	PLAN AND PROFILE 2
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6	PLAN AND PROFILE 4
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8	ROW 1
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10	ROW 3
11	ROW 4
12	ROW 5
13	ENV. SENSITIVE 1
14	ENV. SENSITIVE 2
15	ENV. SENSITIVE 3
16	ENV. SENSITIVE 4
17	ENV. SENSITIVE 5

LEGEND

SECTION/VIEW/DETAIL TITLE LABELS



SECTION REFERENCES

- A REFERS TO THE SECTION DESIGNATION LABEL (TOP)
4 REFERS TO THE SHEET WHERE THE VIEW/SECTION IS SHOWN (BOTTOM)



VIEW/DETAIL REFERENCES

- A REFERS TO THE VIEW/DETAIL DESIGNATION LABEL (TOP)
7 REFERS TO THE SHEET WHERE THE DETAIL IS SHOWN (BOTTOM)



GENERAL NOTES

HOT MIX ASPHALT (MILLVILLE, NIBLEY, CACHE COUNTY)

- CONTRACTOR MUST PROVIDE ENGINEER WITH SPECIFIED AND SELECTED ASPHALT MIX DESIGNS, AND SELECTED PRIME COAT AND TACK COAT AT WEEKLY MEETINGS.
- ALL HOT MIX ASPHALT IN RIGHT OF WAY MUST BE PG 58-28, DM-1/2, MAR SHALL MIX PER APWA 32 12 05 WITH THE EXCEPTION OF UDOT RIGHT OF WAYS.
- CONTRACTOR MUST APPLY TACK COAT, COMPLIANT WITH APWA SECTION 32 12 14, BETWEEN LAYERS OR LIFTS IF THE PREVIOUS PAVEMENT LAYER IS DIRTY OR OLDER THAN 24 HOURS PER APWA SECTION 32 12 16.
- CONTRACTOR MUST COMPACT ALL ASPHALT TO 96% OF THE MAR SHALL (50 BLOW) MAXIMUM DENSITY.

HOT MIX ASPHALT (UDOT SPECIFICATIONS)

- UDOT WILL SPECIFY ASPHALT MIX WITH THEIR ENCROACHMENT PERMIT.
- UDOT IS EXPECTED TO BE PG 64-34 PER UDOT STANDARD SPECIFICATION 02745.
- AGGREGATE GRADATIONS ARE EXPECTED TO BE $\frac{1}{2}$ PER SECTION 02741 TABLE 6 WITH A 7-75-117 GYRATION.
- CONTRACTOR MUST PROVIDE VOLUMETRIC DESIGN GRADATIONS AND DESIGN REQUIREMENTS PER UDOT SECTION 02741.
- TACK COAT ON ALL JOINTS MUST BE ACCORDING TO UDOT SECTION 02748.
- COMPACT ASPHALT TO 96% OF MARSHALL (50 BLOW) MAXIMUM DENSITY. PROVIDE DOCUMENTATION OF COMPACTION FROM A UDOT QUALIFIED LABORATORY.

ASPHALT AND CONCRETE SAW CUTS AND PATCHES

- CONTRACTOR MUST PROTECT ALL EXISTING PAVEMENTS TO BE LEFT IN PLACE. REPAIR OR REPLACE DAMAGED PAVEMENTS AT NO ADDITIONAL EXPENSE TO OWNER. UNLESS DIRECTED BY ENGINEER.
- ALL ASPHALT AND CONCRETE CUT LOCATIONS REPRESENT FINISHED LOCATIONS. CUTS ARE TO BE NEAT, CLEAN, AND VERTICAL PRIOR TO PATCHING ASPHALT OR CONCRETE.
- SAW CUTS AND FINISHED EDGES, INCLUDING CONCRETE, MUST BE CLEANED OF OIL, DIRT, AND DEBRIS PRIOR TO APPLICATION OF TACK COAT.
- ANY SAW CUTS REQUIRED PRIOR TO THE FINAL PATCH TO FACILITATE CONSTRUCTION ARE CONTRACTOR WAYS AND MEANS AND WILL NOT BE PAID IN ADDITION TO THE FINAL CUTS. ADDITIONALLY, ANY DAMAGE TO THE SAW-CUT EDGE MUST BE REPAIRED TO MEET OWNER REQUIREMENTS AT NO ADDITIONAL EXPENSE TO THE CITY.
- ALL SAW CUT EDGES AND FINISHED EDGES MUST BE TREATED WITH A TACK COAT PRIOR TO THE PLACEMENT OF ASPHALT IN ACCORDANCE WITH APWA SECTION 32 12 14.

ASPHALT REPAIR AND REPLACEMENT

- CONTRACTOR MUST REMOVE EXISTING ASPHALT.
- CONTRACTOR MUST SCARIFY AND EXCAVATE AWAY EXISTING MATERIAL TO PROVIDE FOR THE FINISHED ROAD SECTION IN THE DETAILS BASED ON THE GOVERNING AGENCY.
- CONTRACTOR MUST ROLLER COMPACT EXISTING MATERIAL TO FIRM AND UNYIELDING. PROOF ROLL TEST EXISTING SUBGRADE MATERIAL AFTER COMPACTION PER APWA SECTION 32 05 10, SECTION 3.8 PRIOR TO PLACEMENT OF SUBGRADE OR UNTREATED BASE COURSE.
- CONTRACTOR MUST COMPACT ALL SUBGRADE AND UNTREATED BASE COURSE TO 95% MODIFIED PROCTOR DENSITY.
- CONTRACTOR MUST PROOF ROLL TEST UNTREATED BASE COURSE PRIOR TO PLACING ASPHALT.
- CONTRACTOR MUST PLACE ALL HMA IN ACCORDANCE WITH GOVERNING AGENCY.

GRANULAR BACKFILL BORROW

- GRANULAR BACKFILL BORROW MUST BE IN ACCORDANCE WITH APWA SECTION 31 05 13 WITH A MAXIMUM PARTICLE SIZE OF 3 INCHES (RATHER THAN 2 INCHES). GRANULAR BACKFILL BORROW CONSIST OF AN A-1 (ASTM D3282) SOIL.
- GRANULAR BACKFILL BORROW MUST HAVE A MINIMUM CBR VALUE OF 25.
- GRANULAR BACKFILL BORROW MUST BE PLACED AS PER APWA STANDARDS AND SPECIFICATIONS.

UNTREATED BASE COURSE

- UNTREATED BASE COURSE MATERIAL USED FOR ROADWAY, CURB AND GUTTER, AND SIDEWALKS MUST BE CLASS A, GRADE $\frac{3}{4}$ OR GRADE 1, WITH A MINIMUM CBR VALUE OF 70 IN COMPLIANCE WITH APWA SECTION 32 11 23.

SIGNING AND STRIPING

- ALL PAINT TO BE USED FOR STRIPING MUST BE ACRYLIC WATER BASED PAINT OF THE SPECIFIED PIGMENT PER UDOT STANDARD SPECIFICATION 02765 WITH REFLECTORIZED BEADS.
 - APPLICATION RATES ARE AS DEFINED IN UDOT STANDARD SPECIFICATION 02765.
 - ALL SIGNS ON THIS PROJECT MUST BE RECYCLED AND REUSED UNLESS SPECIFIED OTHERWISE ON THE DESIGN DRAWING.
- ALL NEW SIGNS SPECIFIED MUST BE IN ACCORDANCE WITH UTAH MUTCD MOST CURRENT EDITION.



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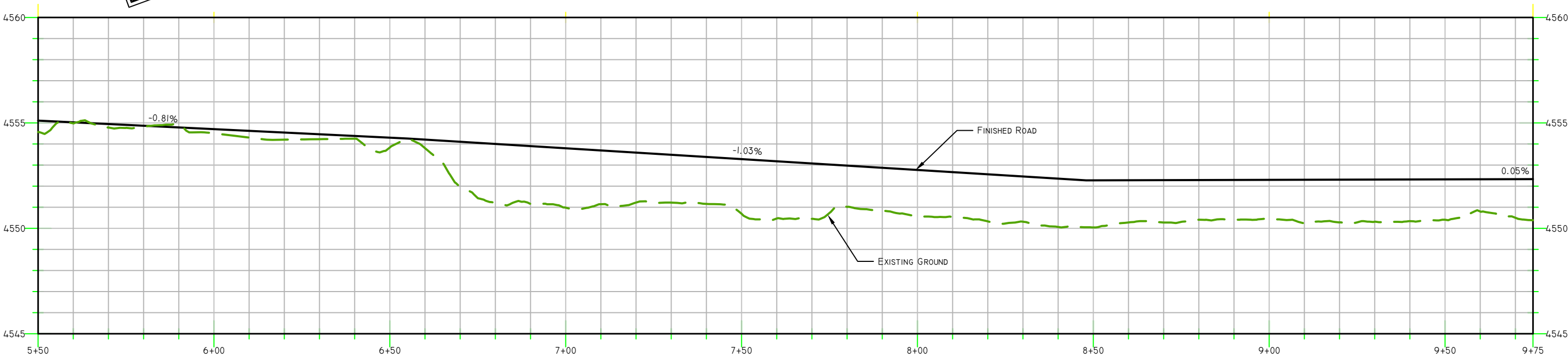
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LANCE HOUSER	MATT GURR				
CHECKED:	REVIEWED:				
CHECKED	REVIEWED				
PROJECT LEADER:	PRINT DATE:				
LANCE HOUSER	MARCH 25, 2021				

MILLVILLE CITY		300 South.dwg	
3200 S - 300 S ROADWAY		0/2/0041 MILLVILLE General Engineering\550 North Road	
SHEET INDEX, GENERAL NOTES		LAYOUT: Notes	
JOB NO.		20041	

SHEET	2	OF	XX
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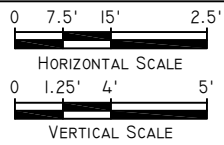


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A

PLAN AND PROFILE STA. 5+50 - 9+75



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DESIGNER: LANCE HOUSER	CHECKED: LANCE HOUSER	PROJECT LEADER: LANCE HOUSER
DRAFTSMAN: MATT GURR	REVIEWED: MATT GURR	PRINT DATE: MARCH 25, 2021
REVISIONS		
NO.	DATE	DESCRIPTION

MILLVILLE CITY

3200 S - 300 S ROADWAY

PLAN AND PROFILE I

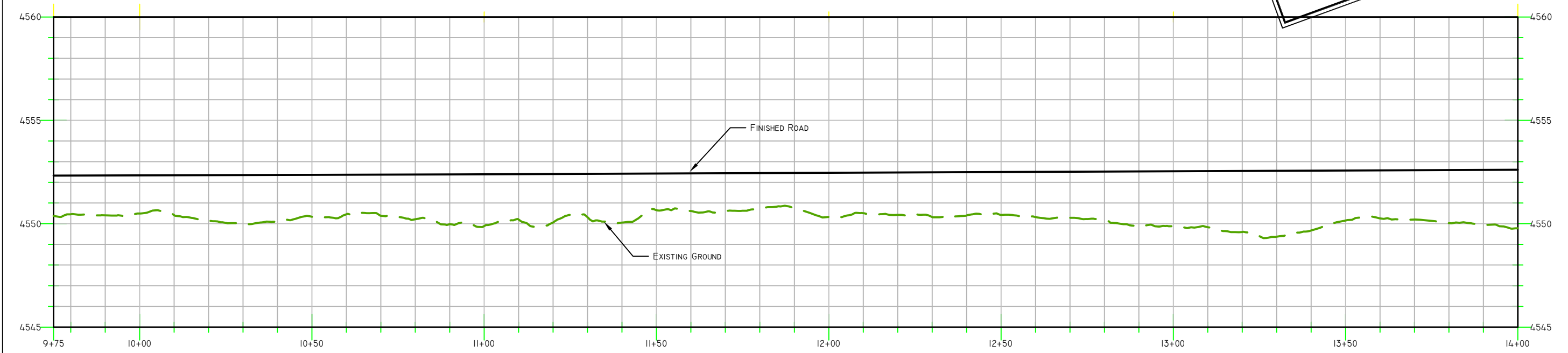
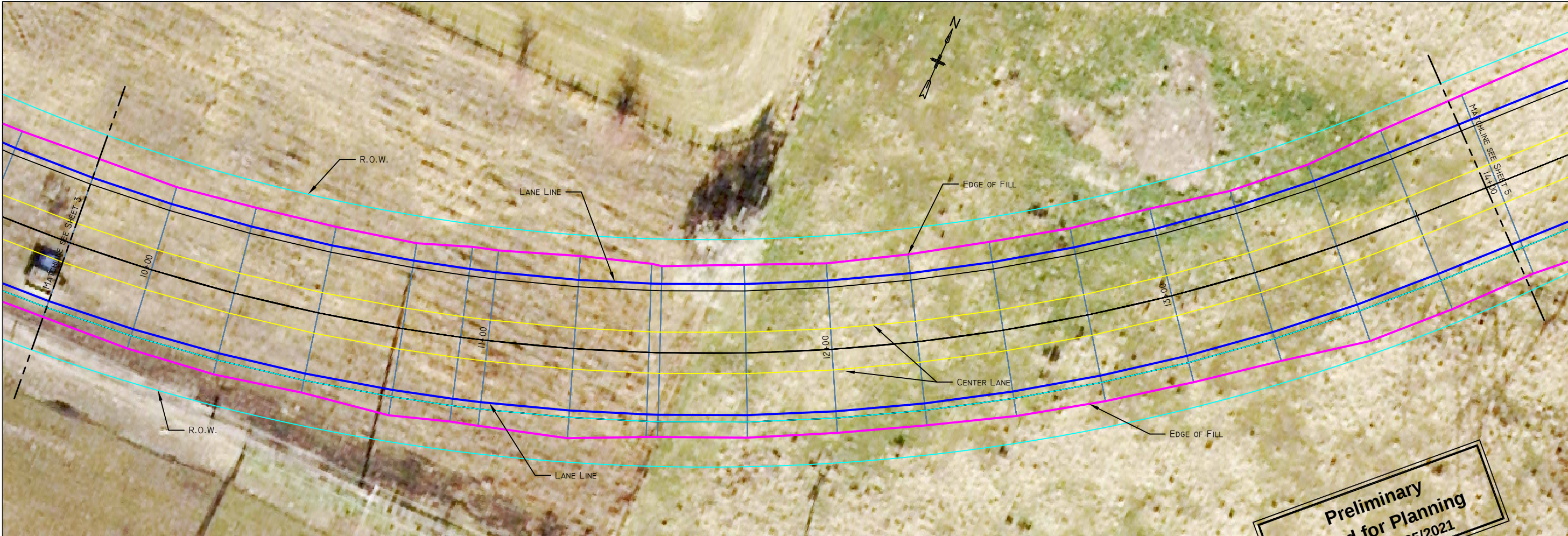
300 South.dwg
03/20/2021 MILLVILLE General Engineering\550 North Road

JOB NO. 20041

LAYOUT: RRI

SHEET

3 OF **XX**



B PLAN AND PROFILE STA. 9+75 - 14+00

0

7.5'

15'

30'

HORIZONTAL SCALE

0

1.25'

2.5'

5'

VERTICAL SCALE



FRANSON
CIVIL ENGINEERS

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DRAFTSMAN:	MATT GURR	PRINT DATE:	MARCH 25, 2021
NO.	DATE	REVISIONS	DESCRIPTION

MILLVILLE CITY

3200 S - 300 S ROADWAY

PLAN AND PROFILE 2

300 South.dwg

03/20/2021

MILLVILLE General Engineering550 North Road

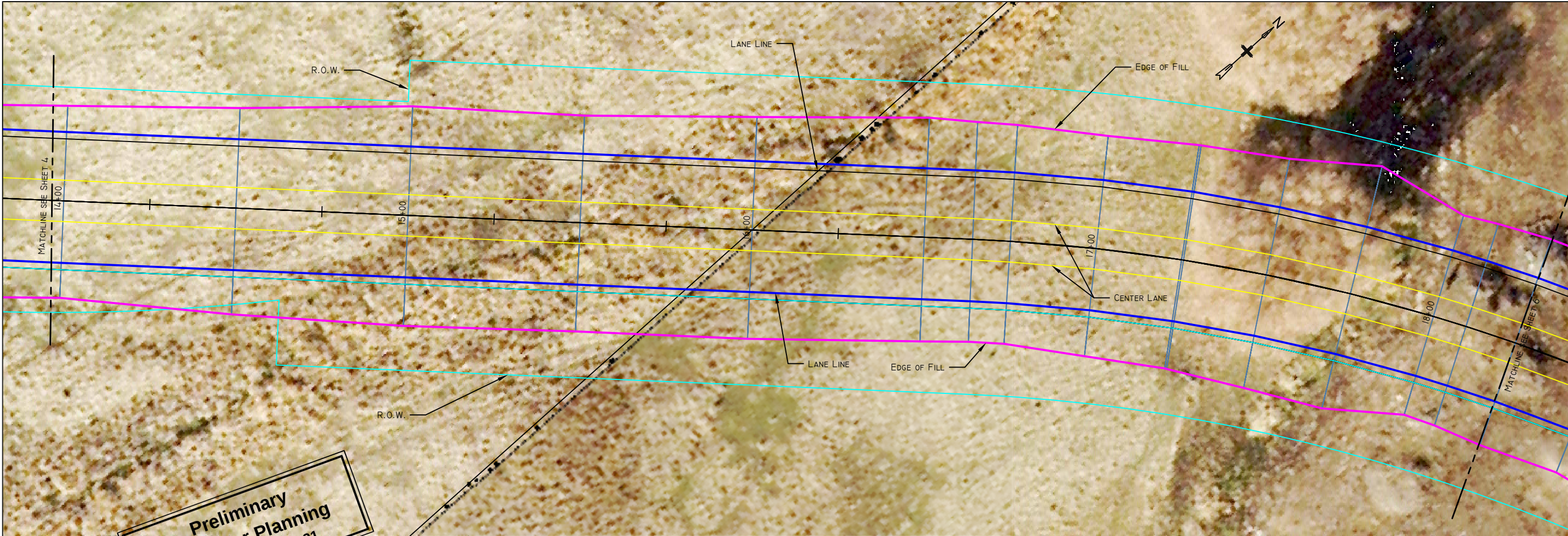
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20041

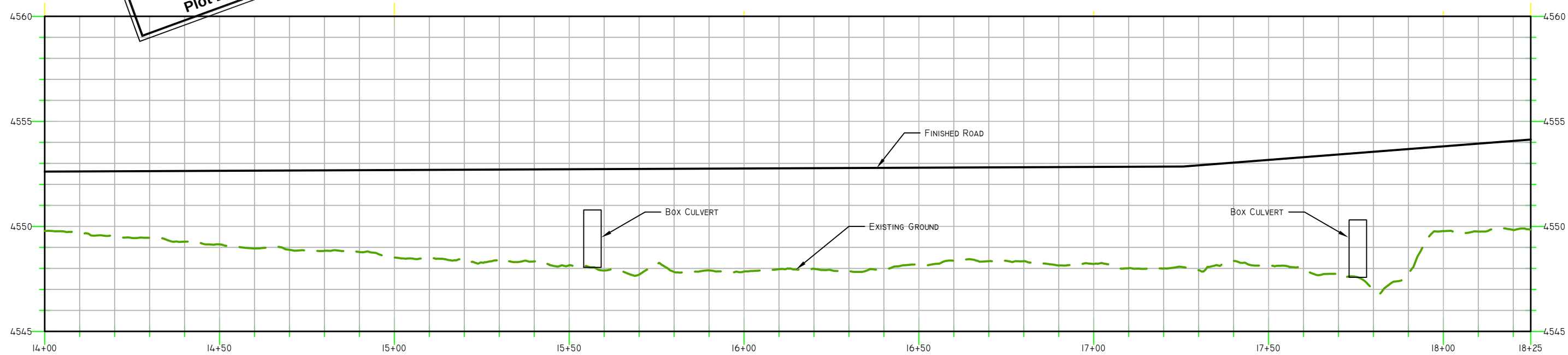
LAYOUT: RR2

SHEET

4 OF XX

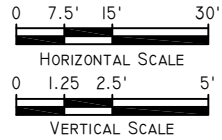


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C

PLAN AND PROFILE STA. 14+00 - 18+25



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DESIGNER		CHECKED		PROJECT LEADER			
LANCE HOUSER		LANCE HOUSER		LANCE HOUSER			
DRAFTSMAN:		REVIEWED		PRINT DATE:			
MATT GURR		REVISIONS		March 25, 2021			
NO.	DATE	INTS.	DESCRIPTION				

MILLVILLE CITY

3200 S - 300 S ROADWAY

PLAN AND PROFILE 3

300 South.dwg

03/20/2021

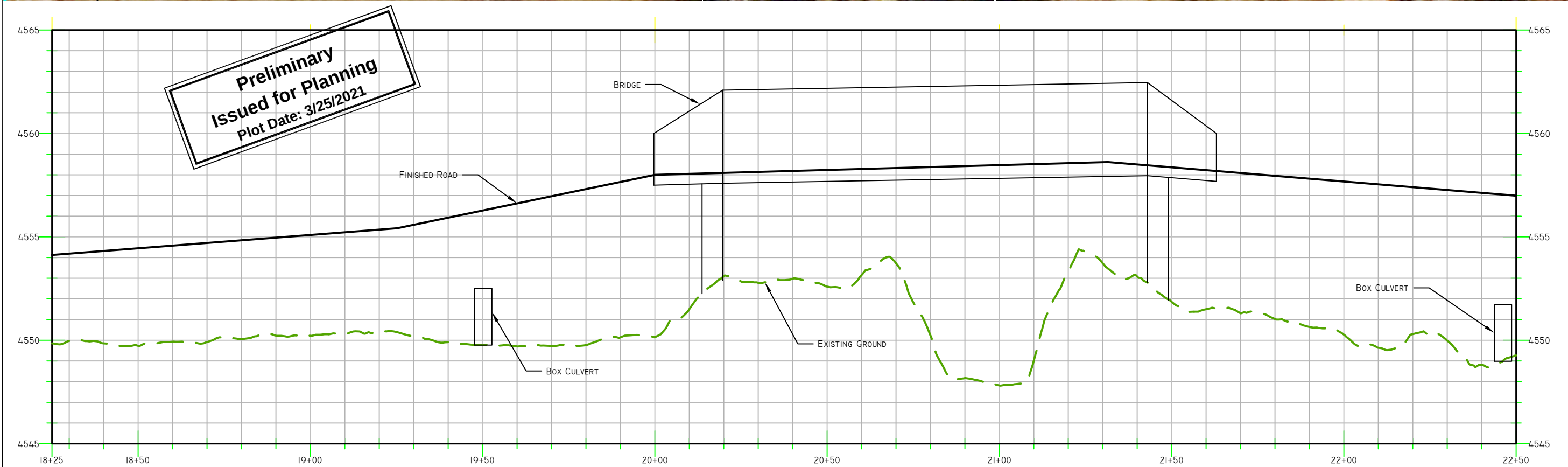
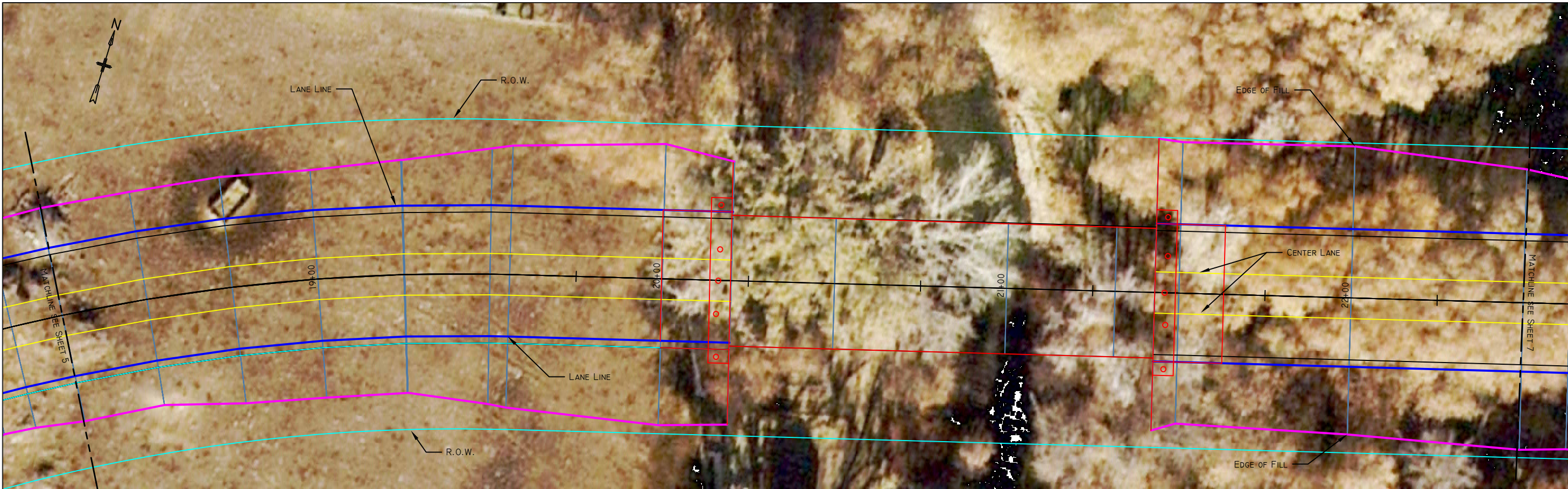
General Engineering

550 North Road

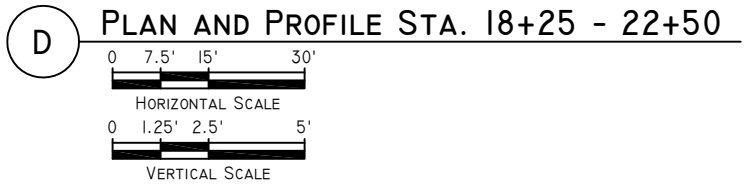
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LAYOUT: RR3



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DRAFTSMAN: MATT GURR	REVIEWED: MATT GURR	PRINT DATE: March 25, 2021
REVISIONS		
NO.	DATE	DESCRIPTION

MILLVILLE CITY

3200 S - 300 S ROADWAY

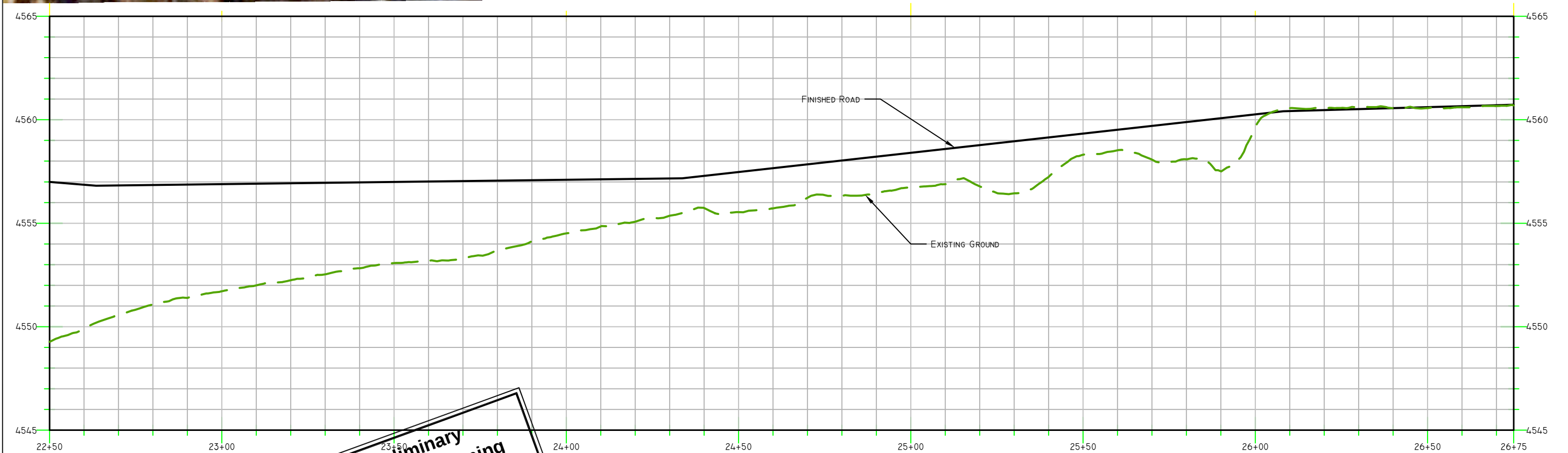
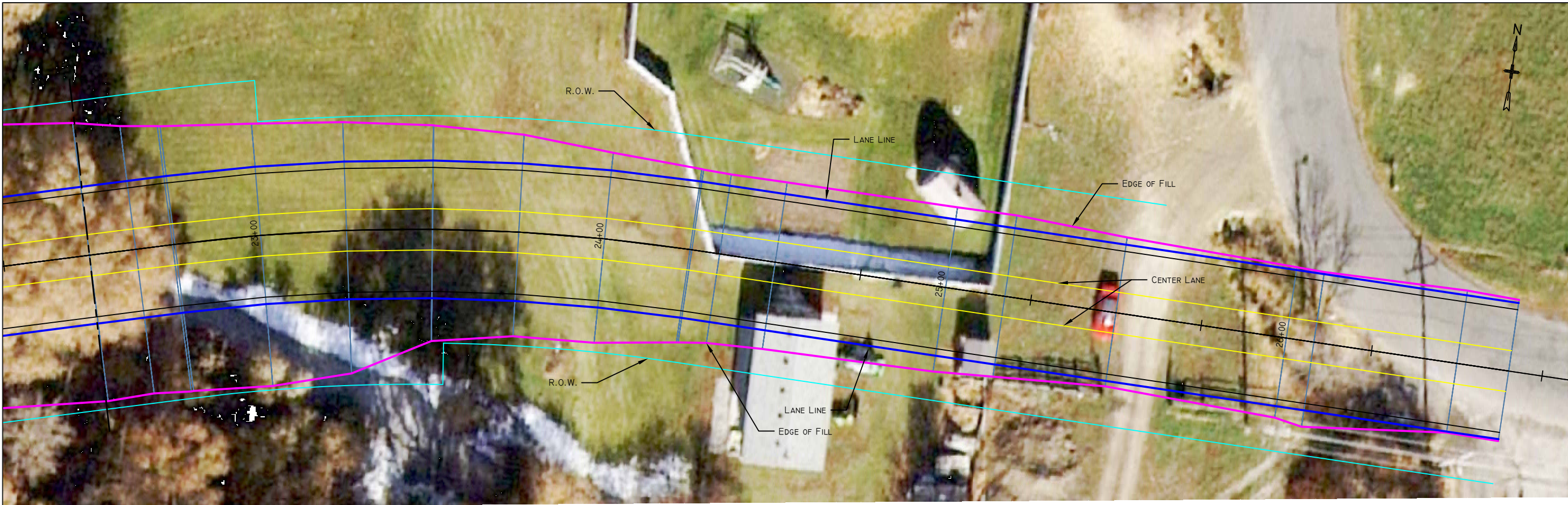
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03/20/2021 MILLVILLE General Engineering550 North Road
LAYOUT: RR4

JOB NO. 20041

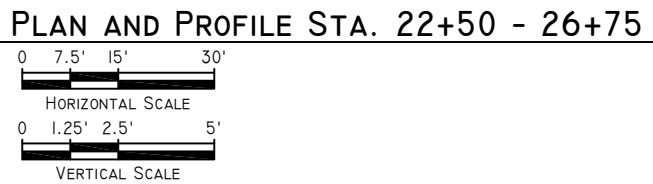
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6 OF **XX**



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MILLVILLE CITY

3200 S - 300 S ROADWAY

PLAN AND PROFILE 5

300 South.dwg
03/20/2021 MILLVILLE General Engineering\550 North Road

JOB NO. 20041

LAYOUT: RR5

SHEET

7 OF **XX**



RECORD OF REVISIONS		

0 1 2

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PROJECT MANAGER	MAX PIERCE
CHECKED BY	SCOTT SHEA
DRAWN BY	MALCOLM EASTON
DRAWING SCALE	50':1"
ISSUE DATE	
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C

R

S

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MILLVILLE CITY

PRELIMINARY EXHIBIT

300 SOUTH TO HIGHWAY 165

4246 SOUTH RIVERBOAT ROAD, SUITE 200

SALT LAKE CITY, UTAH, 84123

STAMP	

PROJECT NUMBER		2019-0022
SHEET	OF	1
SHEET NUMBER		CP101