



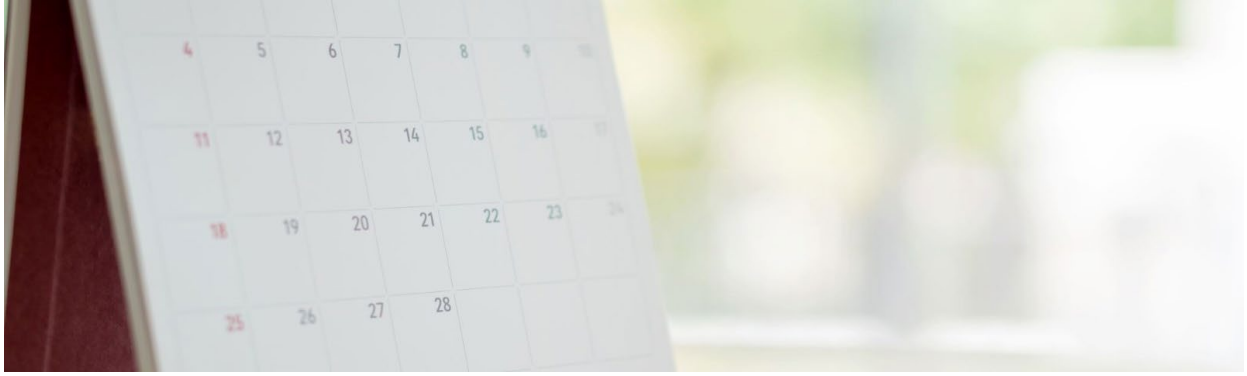
NIBLEY CITY COUNCIL MEETING AGENDA

Thursday, February 23, 2023 – 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 Larsen)
2. Call to Order and Roll Call (Chair)
3. Approval of the February 9, 2023, City Council Meeting Minutes and the Current Agenda (Chair)
4. Public Comment Period¹ (Chair)
5. **Presentation:** Public Works 2022 accomplishments and 2023 goals
6. **Discussion & Consideration: Ordinance 23-11** — Adopting an Impact Fee Analysis and Adjusting Impact Fees for Water, Sewer and Parks. (First Reading)
7. **Discussion and Consideration:** Resolution 23-03— Adopting Annual Amendments to the Nibley City Consolidated Fee Schedule (First Reading)
8. **Discussion:** Ranked Choice Voting Update
9. **Planning Commission Report**
10. **Discussion and Consideration:** Recommendation for Ordinance 23-08: Amendment to Nibley City R-PUD Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision (First Reading)
11. **Discussion and Consideration:** Recommendation for Ordinance 23-09: Park Development Agreement Between Nibley City And 7 Point Royal, LLC for Nibley Meadows Subdivision (First Reading)
12. **Discussion & Consideration:** Ordinance 22-19—Transfer of Development Rights (TDR) Ordinance and zoning several parcels as a TDR Sending Overlay Zone or a TDR Receiving Overlay Zone (Third Reading)
13. **Discussion:** Planning Commission Goals for 2023
14. **Discussion:** City Prosecution Contract Update
15. Council and Staff Report

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.



2-23-23 Council Meeting Change Summary
(changes made to the agenda since 2-17-23)

- The coversheet for Ordinance 23-11 was updated and amended.
- The coversheet for Resolution 23-03 was updated and amended.
- Item #15 was added to the agenda "City Prosecution Contract Update"



**Nibley City Council
Agenda Report for
February 23, 2023**

Agenda Item #5

Description	Presentation – Public Works
Presenter	Steve Eliason, Public Works Director
Recommendation	Receive presentation, ask questions as desired.
Reviewed By	City Manager

Background:

Public Works had a busy year in 2022. Staff would like to give a recap on what was accomplished and give an outline for 2023 goals.

Agenda Item #6

Description	Discussion and Consideration – Ordinance 23-11: Adopting an Impact Fee Analysis and Adjusting Impact Fees for Parks, Culinary Water and Sewer and Providing for the Calculation and Collection of Such Fees, Providing for Appel, Accounting and Severability of the Same, and Other Related Matters (First Reading)
Presenter	Justin Maughan, City Manager Seth Benson, Zions Public Finance
Recommendation	Move to approve Ordinance 23-11: Adopting an Impact Fee Analysis and Adjusting Impact Fees for Parks, Culinary Water and Sewer and Providing for the Calculation and Collection of Such Fees, Providing for Appel, Accounting and Severability of the Same, and Other Related Matters for first reading.
Reviewed By	City Manager, City Attorney

Background

An Impact Fee is a fee that is charged when a home or building is constructed, to offset the impact that the home or building will have on the system for which the fee is charged. For example, a waterline may need to be upsized because a new subdivision was constructed on the far end of town. The water impact fee would be imposed on the homes built in the subdivision, so that the cost of upsizing the water line is not borne by the existing residents of the city.

Impact Fees are highly regulated, both in how they are charged and how they are used. Nibley Sewer, Water and Park impact fees, have not been updated in about ten years. Staff felt it was important to update these fees, to ensure that we are charging the proper amounts, and to not put undue burden on existing residents. To be in compliant with the regulations, staff felt it was important to hire a consultant to assist in the process. An RFP was issued, Zions Public Finance and JUB Engineers were teamed together, and selected to assist. A representative from Zions Public Finance will be on hand to make a presentation and answer any questions Council may have.

In short, the process for updating an impact fee was for JUB Engineers to take a close look at existing master plans and create cost estimates for the identified Capital Projects listed in each of the plans. From that data an Impact Fee Facilities Plan (IFP) is created. Zions Public Finance then creates an Impact Fee Analysis (IFFA) by pairing

the IFFP with population projections and financial calculations to come up with maximum impact fees allowed by law, to recommend to the Council. These documents are available in the Teams folder for Council review.

In addition to creating the IFFP and IFA for Parks, Water and Sewer. Staff and the consultant also looked at possibly creating an impact fee for the stormwater system. After a lot of deliberation with the consultant and staff, it was determined that due to past planning efforts, and the current way stormwater facilities are designed, that it would be difficult to impose a stormwater impact fee at this time.

Adopting the recommended changes would make the following changes to NCC 17.06.050 Impact Fee Imposed - A.1.Facilities Impact Fee:

Parks Impact Fee	\$4,590 <u>\$9,003.00</u> per single-family unit' \$4,590 <u>\$6,613.00</u> per multi-family unit & ADU
Sanitary Sewer Impact Fee	\$1,725 <u>\$1,425.00</u> (1-inch meter) <u>\$1,189</u> (multi-family unit per door & ADU) \$3,450 (1 1/2-inch meter) \$5,520 <u>\$4,629.00</u> (2-inch meter) \$10,349 <u>\$8,685.00</u> (3-inch meter) \$20,698 <u>\$14,478.00</u> (4-inch meter) (Based on the size of the culinary water meter).
Culinary Water Impact Fee	\$1,950 <u>\$3,363.00</u> (1-inch meter) \$3,900 (1 1/2-inch meter) \$6,241 <u>\$2,757.00</u> (multi-family unit per door & ADU) \$6,241 <u>\$10,733.00</u> (2-inch meter) \$11,701 <u>\$20,137.00</u> (3-inch meter) \$23,403 <u>\$33,568.00</u> (4-inch meter) (Based on the size of the culinary water meter).

It is difficult to compare impact fees from City to City because they are so based on the individual needs of each City. But to give the Council an idea, the following is a summary of what it would cost to build a single-family home in each of the respective communities in Cache Valley. These figures include a street impact fee.

Nibley Existing	\$9,062.00
Nibley Max Proposed	\$14,703.00
Smithfield	\$8,368.00
Logan	\$3,788.00
North Logan	\$16,255.00
Hyrum	\$6,921.42
River Heights	\$4,673.00
Hyde Park	\$9,509.00
Millville	\$8,380.00

Staff recommends adopting the maximum recommendation for both water and sewer impact fees. However, the recommended Park Impact fee is quite high, and staff would support reducing that to as low as \$5,500.00. That would bring the cost for a single-family home to \$11,200.00

ORDINANCE 23-11

ADOPTING AN IMPACT FEE ANALYSIS AND ADJUSTING IMPACT FEES FOR WATER, SEWER AND PARKS

WHEREAS, Nibley City is a municipal corporation duly organized and existing under the laws of the State of Utah; and

WHEREAS, Nibley City finds that in conformance with the provision of UCA 11-36a et seq., the City has in the past enacted and promulgated certain impact fees within Nibley City; and

WHEREAS, Nibley City finds that it is in the public welfare and for the benefit of the City and its residents to adopt an impact fee to provide for the future Water, Sewer and Parks needs of Nibley City; and

WHEREAS, in conformance with the provisions of UCA 11-36a-303, Nibley City has prepared a written Impact Fee Analysis and a summary of the impact fee analysis for Water, Sewer and Parks, designed to be understood by a lay person; and

WHEREAS, Nibley City Council has reviewed the Impact Fee Analysis and the summary of that analysis, and finds and concludes that the analysis provides a reasonable plan on which to impose and base an increase of impact fees; and

WHEREAS, Nibley City finds that the new impact fee schedule for Water, Sewer and Park should be adopted and incorporated into City code alongside the existing Transportation Impact Fees.

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

1. The attached amendments to Nibley City Code 17.06 be adopted.
2. All ordinances, resolutions, and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution, or ordinance, or part thereof.
3. Nibley City accepts the impact fee analysis for the Water, Sewer and Parks.
4. This ordinance, and the adoption of the new impact fee, shall take effect within 90 days after the adoption of this ordinance by the City Council.
5. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications, and

to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.

PASSED BY THE NIBLEY CITY COUNCIL THIS 23rd DAY OF February, 2023.

Larry Jacobsen, Mayor

ATTEST: _____
Cheryl Bodily, City Recorder

17.06.050.A.1. Facilities Impact Fee

Parks Impact Fee	\$4,500 <u>\$9,003.00</u> per single-family unit' \$4,500 <u>\$6,613.00</u> per multi-family unit <u>& ADU</u>
Sanitary Sewer Impact Fee	\$1,725 <u>\$1,425.00</u> (1-inch meter) \$1,189 <u>(multi-family unit per door & ADU)</u> \$3,450 <u>(1-1/2 inch meter)</u> \$5,520 <u>\$4,629.00</u> (2-inch meter) \$10,349 <u>\$8,685.00</u> (3-inch meter) \$20,698 <u>\$14,478.00</u> (4-inch meter) (Based on the size of the culinary water meter).
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Nibley City

DRAFT Parks and Trails Impact Fee Analysis November 2022



ZIONS PUBLIC FINANCE, INC.

Contents

Summary of Impact Fee Analysis (IFA)	1
Impact on Consumption of Existing Capacity - <i>Utah Code 11-36a-304(1)(a)</i>	1
Impact on System Improvements by Anticipated Development Activity - <i>Utah Code 11-36a-304(1)(b)</i> ..	2
Relationship of Anticipated Impacts to Anticipated Development Activity - <i>Utah Code 11-36a-304(1)(c)</i> 2	
Proportionate Share Analysis - <i>Utah Code 11-36a-304(1)(d)(i)(ii)</i>	2
Manner of Financing - <i>Utah Code 11-36a-304(2)(c)(d)(e)(f)(g)(h)</i>	3
Utah Code 11-36a	4
Impact Fee Analysis	6
Impact on Consumption of Existing Capacity	6
Demand Placed on Facilities by New Development Activity	6
Impact on System Improvements by Anticipated Development	8
Activity	8
Relationship of Anticipated Impacts to Anticipated Development	9
Activity	9
Proportionate Share Analysis	10
Costs Reasonably Related to New Development Activity	10
Impact Fee Credits	13
Manner of Financing	14
Certification	15

Summary of Impact Fee Analysis (IFA)

Nibley City (“the City”) is experiencing population growth that is increasing demand at its existing parks and trails. The City has therefore determined that it is necessary to consider the enactment of a Parks and Trails Impact Fee so that new development pays for its fair share of the cost of these types of facilities.

The City has determined that there is one service area citywide for parks and trails, and that there is no excess capacity in any of its parks or trails facilities.

Projections for population growth in the City are as follows:

TABLE 1: PROJECTED POPULATION GROWTH, 2022-2032

Year	Population
2022	7,740
2023	7,957
2024	8,180
2025	8,409
2026	8,644
2027	8,886
2028	9,135
2029	9,391
2030	9,654
2031	9,924
2032	10,202
Growth in Population: 2022-2032	2,462

Source: ACS 2020 5-Year Estimate, ZPFI

This IFA is organized based on the legal requirements of Utah Code 11-36a-304.

Impact on Consumption of Existing Capacity - *Utah Code 11-36a-304(1)(a)*

The Impact Fee Facilities Plan (IFFP) considers only *system* facilities in the calculation of impact fees. For the City, this has been determined to mean community and neighborhood parks. Local parks are considered *project* improvements and have not been included in the calculation of impact fees.

Existing service levels are based on the (2022) levels of service in the City for both parks and trails. Existing and proposed service levels are shown in the table below on both a *unit* and *dollar amount* basis.

TABLE 2: EXISTING AND PROPOSED SERVICE LEVELS

Service Levels	Existing	Proposed	Existing	Proposed
Land Acres per Capita/ Amount per Capita	0.015	0.015	\$1,518.86	\$1,518.86
Park Amenities Acres per Capita/ Amount per Capita	0.021	0.021	\$1,209.21	\$1,209.21
Trail Linear Feet per Capita/ Amount per Capita	2.42	2.42	\$144.96	\$144.96

Impact on System Improvements by Anticipated Development Activity - *Utah Code 11-36a-304(1)(b)*

The table below shows the declining cost service levels that will occur in the City, due to population growth, if no new facilities are added. Service levels are shown in terms of units and in terms of cost. Each of these declining service levels is discussed in more detail in the body of this report.

TABLE 3: IMPACTS TO SERVICE LEVELS DUE TO NEW DEVELOPMENT IF NO IMPROVEMENTS ARE MADE

	2022 Service Levels – Units	2032 Service Levels – Units	Investment LOS 2022	Investment LOS 2032
Land Acres per Capita/ Amount per Capita	0.015	0.012	\$1,518.86	\$1,152.32
Park Amenities Acres per Capita/ Amount per Capita	0.021	0.016	\$1,209.21	\$917.40
Trail Linear Feet per Capita/ Amount per Capita	2.42	1.83	\$144.96	\$109.98

Relationship of Anticipated Impacts to Anticipated Development Activity - *Utah Code 11-36a-304(1)(c)*

The demand placed on existing public park facilities by new development activity is attributable to population growth. Nibley City has a 2022 population of 7,740 and, as a result of anticipated development activity, will grow to a projected 10,202 by 2032 – a population increase of 2,462 persons. As growth occurs as a result of increased development activity, more parks and trails facilities are needed to maintain existing service levels and to reach proposed service levels.

In order to maintain the existing level of service, the projected new development over the next ten years will require the construction of new facilities or the consumption of excess capacity in the amount of \$7,073,418.

TABLE 4: NEW FACILITIES NEEDED TO MEET THE DEMANDS OF NEW GROWTH

	Cost
Parks Land	\$3,739,441
Park Amenities	\$2,977,083
Trail Feet	\$356,895
TOTAL	\$7,073,418

Proportionate Share Analysis - *Utah Code 11-36a-304(1)(d)(i)(ii)*

Costs Reasonably Related to New Development Activity

The cost of new system improvements required to maintain the service levels related to new development activity are based on the costs of system-wide facilities, and the consultant fees for the preparation of the Impact Fee Facilities Plan and the Impact Fee Analysis.

TABLE 5: CALCULATION OF GROSS IMPACT FEE

Summary per capita	
Parks/Amenities	\$2,728.08

Summary per capita	
Trails	\$144.96
Consultant Cost	\$3.08
Fund Balance	(\$555.59)
Cost per Capita	\$2,320.53

The fee per person is then multiplied by the average unit size to arrive at the maximum impact fees that can be charged in 2022.

TABLE 6: MAXIMUM IMPACT FEES

	Average Unit Size	Max Fee
Single-Family	3.88	\$9,003.64
Multi-Family	2.85	\$6,613.50
<i>Source: U.S. Census Bureau: 2020 ACS 5-Year Estimates</i>		

Manner of Financing - *Utah Code 11-36a-304(2)(c)(d)(e)(f)(g)(h)*

An impact fee is a one-time fee that is implemented by a local government on new development to help fund and pay for all or a portion of the costs of public facilities that are needed to serve new development. Additionally, impact fees allow new growth to share in the cost of existing facilities that have excess capacity.

Impact Fee Credits

The Impact Fees Act requires credits to be paid back to development for future fees that may be paid to fund system improvements found in the IFFP so that new development is not charged twice.

Extraordinary Costs and Time Price Differential

It is not anticipated that there will be any extraordinary costs in servicing newly-developed park or trail properties.

Utah Code 11-36a

Preparation of Impact Fee Analysis. Utah Code requires that “each local political subdivision... intending to impose an impact fee shall prepare a written analysis (Impact Fee Analysis or IFA) of each impact fee” (Utah Code 11-36a-303). This IFA follows all legal requirements as outlined below. The City has retained Zions Public Finance, Inc. (ZPFI) to prepare this Impact Fee Analysis in accordance with legal requirements.

Section 11-36a-304 of the Utah Code outlines the requirements of an impact fee analysis which is required to identify the following:

- anticipated impact on or consumption of any existing capacity of a public facility by the anticipated development activity;

- anticipated impact on system improvements required by the anticipated development activity to maintain the established level of service for each public facility;

- how anticipated impacts are reasonably related to the anticipated development activity

- the proportionate share of:

 - costs for existing capacity that will be recouped; and

 - costs of impacts on system improvement that are reasonably related to the new development activity; and

 - how the impact fee was calculated

Further, in analyzing whether or not the proportionate share of the costs of public facilities are reasonably related to the new development activity, the local political subdivision or private entity, as the case may be, shall identify, if applicable:

- the cost of each existing public facility that has excess capacity to serve the anticipated development resulting from the new development activity;

- the cost of system improvements for each public facility;

- other than impact fees, the manner of financing for each public facility such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;

- the relative extent to which development activity will contribute to financing the excess capacity of and system improvements for each existing public facility, by means such as user charges, special assessments, or payment from the proceeds of general taxes;

- the relative extent to which development activity will contribute to the cost of existing public facilities and system improvements in the future;

the extent to which the development activity is entitled to a credit against impact fees because the development activity will dedicate system improvements or public facilities that will offset the demand for system improvements, inside or outside the proposed development;

extraordinary costs, if any in servicing the newly developed properties; and

the time-price differential inherent in fair comparisons of amounts paid at different times.

Calculating Impact Fees. Utah Code 11-36a-305 states that for purposes of calculating an impact fee, a local political subdivision or private entity may include the following:

construction contract price;

cost of acquiring land, improvements, materials, and fixtures;

cost for planning, surveying, and engineering fees for services provided for and directly related to the construction of the system improvements; and

for a political subdivision, debt service charges if the political subdivision might use impact fees as a revenue stream to pay the principal and interest on bonds, notes or other obligations issued to finance the costs of the system improvements.

Additionally, the Code states that each political subdivision or private entity shall base impact fee amounts on realistic estimates and the assumptions underlying those estimates shall be disclosed in the impact fee analysis.

Certification of Impact Fee Analysis. Utah Code 11-36a-306 states that an impact fee analysis shall include a written certification from the person or entity that prepares the impact fee analysis. This certification is included at the conclusion of this analysis.

Impact Fee Enactment. Utah Code 11-36a-202 states that a local political subdivision or private entity wishing to impose impact fees shall pass an impact fee enactment in accordance with Section 11-36a-402. Additionally, an impact fee imposed by an impact fee enactment may not exceed the highest fee justified by the impact fee analysts. An impact fee enactment may not take effect until 90 days after the day on which the impact fee enactment is approved.

Notice of Intent to Prepare Impact Fee Analysis. A local political subdivision must provide written notice of its intent to prepare an IFA before preparing the Analysis (Utah Code 11-36a-503(1)). This notice must be posted on the Utah Public Notice website. The City has complied with this noticing requirement for the IFA by posting notice.

Impact Fee Analysis

Utah Code allows cities to include only system-wide parks for the purpose of calculating impact fees. Project-wide parks and trails cannot be used to establish levels of service eligible to be maintained through impact fees. Based on input from the City and the consultants, a system-wide park is defined as a park that serves more than one local development area.

This IFA is organized based on the legal requirements of Utah Code 11-36a-304.

Chapter 1: Impact on Consumption of Existing Capacity

Utah Code 11-36a-304(1)(a): an impact fee analysis shall identify the anticipated impact on or consumption of any existing capacity of a public facility by the anticipated development activity

Demand Placed on Facilities by New Development Activity

Park Land. Existing park service levels will decline, due to population growth attributed to new development activity, from the existing cost service level of \$1,518.86 to \$1,152.32 per person by 2032 if no new facilities are acquired or constructed.

TABLE 7: PARK LAND SERVICE LEVEL IMPACTS FROM NEW DEVELOPMENT ACTIVITY, 2022-2032

Year	Population	Population Growth	Unit Service Levels per Capita if No New Facilities	Additional Park (Acres) Needed	Cost Service Levels per Capita If No New Facilities	Additional Investment Needed
2022	7,740		0.015	-	\$1,518.86	\$0
2023	7,957	217	0.015	3.30	\$1,477.44	\$329,593
2024	8,180	223	0.014	3.39	\$1,437.16	\$338,706
2025	8,409	229	0.014	3.48	\$1,398.03	\$347,820
2026	8,644	235	0.014	3.57	\$1,360.02	\$356,933
2027	8,886	242	0.013	3.68	\$1,322.98	\$367,565
2028	9,135	249	0.013	3.78	\$1,286.92	\$378,197
2029	9,391	256	0.013	3.89	\$1,251.84	\$388,829
2030	9,654	263	0.012	3.99	\$1,217.73	\$399,461
2031	9,924	270	0.012	4.10	\$1,184.60	\$410,093
2032	10,202	278	0.012	4.22	\$1,152.32	\$422,244

Park Amenities. The existing level of service of \$1,209.21 per person will decline to \$917.40 per person by 2032, if no new improvements are made.

TABLE 8: PARK AMENITIES SERVICE LEVEL IMPACTS FROM NEW DEVELOPMENT ACTIVITY, 2022-2032

Year	Population	Population Growth	Cost Service Levels per Capita if No New Facilities	Additional Investment Needed (Per Capita)	Unit Service Levels per Capita if No New Facilities
2022	7,740		\$1,209.21	\$0	0.021
2023	7,957	217	\$1,176.24	\$262,399	0.020
2024	8,180	223	\$1,144.17	\$269,655	0.020
2025	8,409	229	\$1,113.01	\$276,910	0.019
2026	8,644	235	\$1,082.75	\$284,165	0.019
2027	8,886	242	\$1,053.26	\$292,630	0.018
2028	9,135	249	\$1,024.56	\$301,094	0.018
2029	9,391	256	\$996.63	\$309,559	0.017
2030	9,654	263	\$969.47	\$318,023	0.017
2031	9,924	270	\$943.10	\$326,488	0.016
2032	10,202	278	\$917.40	\$336,161	0.016

Trail Feet. The existing level of service of \$144.96 per person will decline to \$109.98 per person by 2032, if no new improvements are made.

TABLE 9: TRAIL ACRES SERVICE LEVEL IMPACTS FROM NEW DEVELOPMENT ACTIVITY, 2022-2032

Year	Population	Population Growth	Trail Feet Per Capita if No New Facilities	Additional Trail Feet Needed	Cost Service Levels per Capita if No New Facilities	Additional Investment Needed
2022	7,740		2.42	18,700.00	\$144.96	\$0
2023	7,957	217	2.35	19,224.28	\$141.01	\$31,457
2024	8,180	223	2.29	19,763.05	\$137.16	\$32,326
2025	8,409	229	2.22	20,316.32	\$133.43	\$33,196
2026	8,644	235	2.16	20,884.08	\$129.80	\$34,066
2027	8,886	242	2.10	21,468.76	\$126.27	\$35,081
2028	9,135	249	2.05	22,070.35	\$122.82	\$36,095
2029	9,391	256	1.99	22,688.85	\$119.48	\$37,110
2030	9,654	263	1.94	23,324.26	\$116.22	\$38,125
2031	9,924	270	1.88	23,976.59	\$113.06	\$39,140
2032	10,202	278	1.83	24,648.24	\$109.98	\$40,299

Chapter 2: Impact on System Improvements by Anticipated Development Activity

Utah Code 11-36a-304(1)(b): an impact fee analysis shall identify the anticipated impact on system improvements required by the anticipated development activity to maintain the established level of service for each public facility;

The City will need to acquire additional parks and trails facilities in order to maintain its existing service levels. Service levels will decline, as a result of population growth unless new facilities are constructed or acquired. Impact fees will be used to maintain the existing service levels for parks and trails facilities.

TABLE 10: COST OF FACILITIES DUE TO NEW GROWTH

	Cost
Parks Land	\$3,739,441
Park Amenities	\$2,977,083
Trail Feet	\$356,895
TOTAL	\$7,073,418

Chapter 3: Relationship of Anticipated Impacts to Anticipated Development Activity

Utah Code 11-36a-304(1)(c): an impact fee analysis shall subject to Subsection (2), demonstrate how the anticipated impacts described in Subsections (1)(a) and (b) are reasonably related to the anticipated development activity;

The demand placed on existing public parks and trails facilities by new development activity is attributable to population growth. The City has a 2022 population of 7,740 and as a result of anticipated development activity will grow to a projected 10,202 by 2032 – an increase of 2,462. As growth occurs as a result of increased development activity, more parks and trails facilities are needed to maintain existing service levels and to reach proposed service levels.

DRAFT

Chapter 4: Proportionate Share Analysis

Utah Code 11-36a-304(1)(d)(i)(ii): an impact fee analysis shall estimate the proportionate share of costs for existing capacity that will be recouped; and the costs of impacts on system improvements that are reasonably related to the new development activity;

Costs Reasonably Related to New Development Activity

The cost of new system improvements required to maintain the existing level of parks and trail services related to new development activity is based on the cost of system-wide park and trail facilities, as well as consultant fees for the preparation of the Impact Fee Facilities Plan and the Impact Fee Analysis.

In 2017, the City completed a Parks, Trails and Recreation Master Plan that identifies the City's intent to maintain its existing service levels and identifies specific improvements for which impact fees are needed in order to offset the costs associated with growth. The Master Plan, after extensive community engagement notes the following projects throughout the City:

- Establishing usable park spaces within walking reach of 90%+ of Nibley's residents
- Generating a network of major and minor trails that increase Nibley's internal and regional connectivity
- Preserving critical open spaces for recreation, nature preserves, wildlife corridors and farms

Specifically, the following improvements are listed in the Master Plan:

- Fitness courts
- Tennis courts
- Community gardens
- Dog parks
- Water parks
- Playgrounds
- Pavilions
- Restrooms
- Walking trails
- Other park improvements and amenities

Several parks were identified as needing improvements in order to keep up with the demands of growth. These parks include Firefly Park, Veterans Memorial Park, Riverhawk Park, Discovery Park, Nibley Regional Park, River Hollow Park and Morgan Farm, among others.

Trail improvements identified in the study include City Center Trail, Nature Way Trail, Hyrum Slough Connector Trail, 4000 South Trail, Edgeline Trail and East River Trail.

TABLE 11: PER PERSON COST TO MAINTAIN LOS FOR PARK LAND

Park Land	Amount
Additional Acres Needed - Land	37.39
Cost per Acre	\$100,000
Investment Required, 2022-2032	\$3,739,440.83
Population Growth, 2022-2032	2,462

Park Land	Amount
Cost per Capita - Land	\$1,518.86

The cost per capita to maintain the existing level of service for park amenities is \$1,209.21.

TABLE 12: COST PER PERSON TO MAINTAIN LOS FOR PARK AMENITIES

Park Amenities	Amount
Additional Amenities Acres Needed	51.64
Cost of Amenities per Acre	\$57,648.97
Investment Required, 2022-2032	\$2,977,083.09
Population Growth, 2022-2032	2,462
Cost per Capita - Amenities	\$1,209.21

The cost per person to maintain the existing level of service for trails is \$144.96.

TABLE 13: COST PER PERSON TO MAINTAIN LOS FOR TRAILS

Trails	Amount
Additional Trail Feet Needed	5,948.24
Cost per linear foot	\$60.00
Investment Required, 2022-2032	\$356,894.57
Population Growth, 2022-2032	2,462
Cost per Capita	\$144.96

The Impact Fee Facilities Plan and Impact Fee Analysis consultant cost is \$3.08 per person.

TABLE 14: COST PER PERSON FOR CONSULTANTS FOR IFFP AND IFA

Consultant Costs	Amount
Consultant Cost	\$7,575.00
Growth in Population, 2022-2032	2,462
Cost per Person	\$3.08

The total gross cost per person is \$2,320.53.

TABLE 15: SUMMARY OF GROSS COST PER PERSON

Description	Amount
Parks/Amenities	\$2,728.08
Trails	\$144.96
Consultant Cost	\$3.08
Fund Balance	(\$555.59)
Cost per capita	\$2,320.53

TABLE 16: MAXIMUM IMPACT FEES

	Average Unit Size	Max Fee
Single-Family	3.88	\$9,003.64

	Average Unit Size	Max Fee
Multi-Family	2.85	\$6,613.50
<i>Source: U.S. Census Bureau: 2020 ACS 5-Year Estimates</i>		

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Chapter 5: Impact Fee Credits

Utah Code 11-36a-304(1)(e): an impact fee analysis shall, based on the requirements of this chapter, identify how the impact fee was calculated;

The City may choose to allow a developer to contribute park and trail facilities improvements in place of impact fees. This decision is at the discretion of the City.

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Chapter 6: Manner of Financing

Utah Code 11-36a-304(2)(c)(d)(e)(f)(g)(h): an impact fee analysis shall identify, if applicable: other than impact fees, the manner of financing for each public facility such as user charges, special assessments, bonded indebtedness, federal taxes, or federal grants;

An impact fee is a one-time fee that is implemented by a local government on new development to help fund and pay for all or a portion of the costs of public facilities that are needed to serve new development. These fees are usually implemented to help reduce the economic burden on local jurisdictions that are trying to deal with population and commercial growth within the area. As a matter of policy and legislative discretion, a City may choose to have new development pay the full cost of its share of new public facilities if the facilities would not be needed except to service new development. However, local governments may use other sources of revenue to pay for the new facilities required to service new development and use impact fees to recover the cost difference between the total cost and the other sources of revenue. Additionally, impact fees allow new growth to share in the cost of existing facilities that have excess capacity.

At the current time, no other sources of funding other than impact fees have been identified, but to the extent that any are identified and received in the future, then impact fees will be reduced accordingly.

Additional system-wide park land and recreation facility improvements beyond those funded through impact fees that are desired to maintain a higher proposed level of service will be paid for by the community through other revenue sources such as user charges, special assessments, GO bonds, general taxes, etc.

Impact Fee Credits

In the situation that a developer chooses to construct facilities found in the IFFP in lieu of impact fees, the arrangement must be made through the developer and the City.

At the discretion of the City, impact fees may be modified for certain types of development such as low-income housing, memory care units, etc.

Extraordinary Costs and Time Price Differential

The Impact Fees Act requires credits to be paid back to development for future fees that may be paid to fund system improvements found in the IFFP so that new development is not charged twice. Credits may also be paid back to developers who have constructed or directly funded items that are included in the IFFP or donated to the City in lieu of impact fees, including the dedication of land for system improvements. This situation does not apply to developer exactions or improvements required to offset density or as a condition for development. Any item for which a developer receives credit should be included in the IFFP and must be agreed upon with the City before construction begins.

It is not anticipated that there will be any extraordinary costs in servicing newly developed park, recreation or trail properties. To account for the time-price differential inherent in fair comparisons of amounts paid at different times, actual costs have been used to compute buy-in costs to public facilities with excess capacity and current costs have been used to compute impacts on system improvements required by anticipated development activity to maintain the established level of service for each public facility.

Certification

Zions Public Finance, Inc. certifies that the attached impact fee analysis:

1. includes only the costs of public facilities that are:
 - a. allowed under the Impact Fees Act; and
 - b. actually incurred; or
 - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
 - a. costs of operation and maintenance of public facilities;
 - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
3. offsets costs with grants or other alternate sources of payment; and
4. complies in each and every relevant respect with the Impact Fees Act.



Nibley City

DRAFT Parks and Trails Impact Fee Facilities Plan November 2022



ZIONS PUBLIC FINANCE, INC.

Contents

Contents	1
Executive Summary.....	2
Background	2
Identify the Existing and Proposed Levels of Service and Excess Capacity.....	2
Identify Demands Placed Upon Existing Public Facilities by New Development Activity at the Proposed Level of Service	3
Identify How the Growth Demands Will Be Met.....	3
Consideration of Revenue Sources to Finance Impacts on System Improvements	4
Chapter 1: Utah Code Legal Requirements	5
Notice of Intent to Prepare Impact Fee Facilities Plan.....	5
Preparation of Impact Fee Facilities Plan	5
Certification of Impact Fee Facilities Plan	6
Chapter 2: Existing Service Levels, Proposed Service Levels And Excess Capacity	7
Growth in Demand.....	7
Existing Service Levels.....	7
Proposed Service Levels.....	9
Identify Excess Capacity	9
Chapter 3: Identify Demands Placed On Existing Public Facilities By New Development Activity At Proposed Level Of Service And How Those Demands Will Be Met	10
Demand Placed on Facilities by New Development Activity.....	10
Chapter 4: Consideration Of All Revenue Sources	13
Certification.....	14

Executive Summary

Background

Nibley City (“the City”) has created this Parks and Trails Impact Fee Facilities Plan in accordance with all legal requirements of Utah Code 11-36a. New development will place increased demand on existing park and trail facilities and therefore is responsible for contributing its fair share of the capital costs necessitated by new development.

Demand for park and trail facilities comes from residential development and the associated population growth. Commercial development is not considered to create more demand on park and trail facilities and is therefore not included in the calculation of impact fees. Projected population growth in Nibley is estimated as follows:

TABLE 1: PROJECTED POPULATION GROWTH, 2022-2032

Year	Population
2022	7,740
2023	7,957
2024	8,180
2025	8,409
2026	8,644
2027	8,886
2028	9,135
2029	9,391
2030	9,654
2031	9,924
2032	10,202
Growth in Population: 2022-2032	2,462

Source: ACS 2020 5-Year Estimate, ZPFI

Identify the Existing and Proposed Levels of Service and Excess Capacity

Utah Code 11-36a-302(1)(a)(i)(ii)(iii)

The IFFP considers only system-wide park and trail facilities for the purpose of calculating impact fees. Project-wide park and trail facilities cannot be used to establish levels of service eligible to be maintained through impact fees. Based on input from the City and the consultants, a system-wide park and trail facility is defined as a facility that serves more than one local development area.

Existing service levels are based on the 2022 levels of service in the City for parks and trails. Existing and proposed service levels are shown in the table below on both a *unit* and *dollar amount* basis.

TABLE 2: EXISTING AND PROPOSED SERVICE LEVELS – UNIT AND COST SERVICE LEVELS

Service Levels	Existing	Proposed	Existing	Proposed
Land Acres per Capita/ Amount per Capita	0.015	0.015	\$1,518.86	\$1,518.86
Park Amenities Acres per Capita/ Amount per Capita	0.021	0.021	\$1,209.21	\$1,209.21

Service Levels	Existing	Proposed	Existing	Proposed
Trail Linear Feet per Capita/ Amount per Capita	2.42	2.42	\$144.96	\$144.96

The City intends to at least maintain current service levels for parks and trails. The existing and proposed levels of service have been expressed in acres per capita for parks and in linear feet per capita for trails; these numbers are then converted to a cost level per capita. Parks and trails development in the City is one overall recreation system designed to meet the needs and desires of residents for physical and leisure activities and therefore the overall cost service level reflects the combined level of service for all parks and trails.

Identify Demands Placed Upon Existing Public Facilities by New Development Activity at the Proposed Level of Service

Utah Code 11-36a-302(1)(a)(iv)

The table below shows the declining service levels that will occur in the City, due to the projected population growth in the next ten years if no new facilities are added. Service levels are shown in terms of units and in terms of cost. Each of these declining service levels is discussed in more detail in the body of this plan.

TABLE 3: IMPACTS TO SERVICE LEVELS DUE TO NEW DEVELOPMENT IF NO IMPROVEMENTS ARE MADE

	2022 Service Levels – Units	2032 Service Levels – Units	Investment LOS 2022	Investment LOS 2032
Land Acres per Capita/ Amount per Capita	0.015	0.012	\$1,518.86	\$1,152.32
Park Amenities Acres per Capita/ Amount per Capita	0.021	0.016	\$1,209.21	\$917.40
Trail Linear Feet per Capita/ Amount per Capita	2.42	1.83	\$144.96	\$109.98

Identify How the Growth Demands Will Be Met

Utah Code 11-36a-302(1)(a)(v)

In order to maintain the existing level of service, the projected population growth attributed to new development over the next ten years will require the construction of new facilities in the amount of \$7,073,418.

TABLE 4: NEW FACILITIES NEEDED TO MEET THE DEMANDS OF NEW GROWTH

	Cost
Parks Land	\$3,739,441
Park Amenities	\$2,977,083
Trail Feet	\$356,895
TOTAL	\$7,073,418

Consideration of Revenue Sources to Finance Impacts on System Improvements

Utah Code 11-36a-302(2)

This Impact Fee Facilities Plan includes a thorough discussion of all potential revenue sources for park and trail improvements. These revenue sources include grants, bonds, interfund loans, transfers from the General Fund, impact fees and anticipated or accepted dedications of system improvements.

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Chapter 1: Utah Code Legal Requirements

Utah law requires that communities prepare an Impact Fee Facilities Plan (IFFP) before preparing an Impact Fee Analysis (IFA) and enacting an impact fee. Utah law also requires that communities give notice of their intent to prepare and adopt an IFFP. This IFFP follows all legal requirements as outlined below. The City has retained Zions Public Finance, Inc. (ZPFI) to prepare this Impact Fee Facilities Plan in accordance with legal requirements.

Notice of Intent to Prepare Impact Fee Facilities Plan

A local political subdivision must provide written notice of its intent to prepare an IFFP before preparing the Plan (Utah Code §11-36a-501). This notice must be posted on the Utah Public Notice website. The City has complied with this noticing requirement for the IFFP by posting notice.

Preparation of Impact Fee Facilities Plan

Utah Code requires that each local political subdivision, before imposing an impact fee, prepare an Impact Fee Facilities Plan. (Utah Code 11-36a-301).

Section 11-36a-302(a) of the Utah Code outlines the requirements of an Impact Fee Facilities Plan which is required to identify the following:

- (i) identify the existing level of service
- (ii) establish a proposed level of service
- (iii) identify any excess capacity to accommodate future growth at the proposed level of service
- (iv) identify demands placed upon existing facilities by new development activity at the proposed level of service; and
- (v) identify the means by which the political subdivision or private entity will meet those growth demands.

Further, the proposed level of service may:

- (i) exceed the existing level of service if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service; or
- (ii) establish a new public facility if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service.

In preparing an Impact Fee Facilities Plan, each local political subdivision shall generally consider all revenue sources to finance the impacts on system improvements, including:

- (a) grants
- (b) bonds

- (c) interfund loans
- (d) transfers from the General Fund
- (e) impact fees; and
- (f) anticipated or accepted dedications of system improvements.

Certification of Impact Fee Facilities Plan

Utah Code states that an Impact Fee Facilities Plan shall include a written certification from the person or entity that prepares the Impact Fee Facilities Plan. This certification is included at the conclusion of this plan.

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Chapter 2: Existing Service Levels, Proposed Service Levels And Excess Capacity

Utah Code 11-36a-302(1)(a)(i)(ii)(iii)

Growth in Demand

Impacts on facilities will come from growth in the population.

TABLE 5: PROJECTED POPULATION GROWTH, 2022-2032

Year	Population
2022	7,740
2023	7,957
2024	8,180
2025	8,409
2026	8,644
2027	8,886
2028	9,135
2029	9,391
2030	9,654
2031	9,924
2032	10,202
Growth in Population: 2022-2032	2,462

Source: ACS 2020 5-Year Estimate, ZPFI

Population projections are for 2,462 additional residents between 2022 and 2032.

Existing Service Levels

Parks. The City has indicated that some of the park acres within the City were donated for City use and are ineligible for consideration in impact fee calculations. However, the cost of park amenities can be considered in impact fee calculations for parks where only the property was donated to the City. Total system improvements for parks are shown in the table below as well as the parks that are eligible for impact fee calculations:

TABLE 6: SYSTEM PARK ACREAGE

Park Name	Acres	Impact Fee Eligible Acres
Elkhorn Park	4.11	4.11
Virgil Gibbons Heritage Park	13.50	13.50
Anhder Park	6.80	6.80
Morgan Farm	7.95	7.95
Fire Fly Park	20	20
Mt Vista Park	2.96	Amenities Only
Ridgeline Park	16.82	Amenities Only
Foxborough Trail	1.38	Amenities Only
Blacksmith Fork Trail	5.2	5.2

Park Name	Acres	Impact Fee Eligible Acres
Clear Creek Park	4.28	Amenities Only
Meadow View	2	Amenities Only
Nibley Gardens	6.24	Amenities Only
Regional Park	50	50
River Hollow	10	10
Discovery Park	11.11	0
Cottages Trail	1.7	0
Meadow Creek	0.5	0
Nibley Farms	10.61	0
Summerfield Trail	0.35	0
Total	175.51	117.56

The existing level of service for parks then, for the purpose of calculating impact fees, is .015 acres per capita, calculated by dividing the 117.56 eligible park acres by the 2022 population of 7,740.

Existing impact-fee eligible park improvements are summarized in the table below.

TABLE 7: SYSTEM PARK IMPROVEMENTS

Unit Type	Units	Cost per Unit	Total Investment
LAND			
Acres	117.56	\$100,000	\$11,756,000
IMPROVEMENTS			
Sod and Irrigation Improvements (sf)	1,341,231.65	\$3.50	\$4,694,310.78
Large Pavilion with Restrooms (80x40)	1.00	\$150,000	\$150,000.00
Medium Pavilion (30x30)	2	\$75,000	\$150,000
Small Pavilion (20x20)	1	\$50,000	\$50,000
Restrooms/other parks and Rec Buildings	6	\$100,000	\$600,000
Picnic Tables	52	\$2,000	\$104,000
Small-Medium Playground	7	\$100,000	\$700,000
Trails/Walkways (lf)	18,700	\$60	\$1,122,000
Tennis Courts	1	\$175,000	\$175,000
Field Lighting	1	\$150,000	\$150,000
Parking Lots/Asphalt (sf) or parking stalls	178,800	\$5	\$894,000
Benches	10	\$2,500	\$25,000
Amphitheater	1	\$250,000	\$250,000
Bike Track	1	\$150,000	\$150,000
Pickle Ball Court	2	\$62,500	\$125,000
Walking Bridge	2	\$10,000	\$20,000
Total Improvements			\$9,359,311
Cost per Acre			\$57,649

The existing level of service for parks (land and improvements) is therefore calculated by taking the total investment of park acreage of \$11,756,000 and park improvements of \$9,359,311 and dividing by the existing population of 7,740, which results in a service level of \$1,518.86 per person for land and \$1,209.21

per person for park improvements.

Trail Feet. The City currently has 22,505 linear trail feet (lf). However, 3,805 feet were gifted to the City which leaves 18,700 impact fee eligible linear trail feet. This results in a current (2022) standard of 2.42 trail feet per capita, calculated by dividing the 18,700 trail feet by the 2022 population. The level of service is \$144.96 per person, calculated by dividing the cost of the existing eligible trail feet (\$1,122,000) by the existing population of 7,740.

TABLE 8: EXISTING SYSTEM TRAIL FEET IMPROVEMENTS

Trails:	Linear Feet	Cost per Units (lf)	Total Investment
All Trails	18,700	\$60.00	\$1,122,000

Proposed Service Levels

The City has decided to maintain its existing service levels for park and trail facilities. Therefore, the proposed level of service for park and trail facilities for the next ten years will be at least the same as, or greater than, the existing level of service. Impact fees for park and trail facilities, however, will only be calculated based on the existing level of service. If the City chooses to increase its service levels, it will be done through funding sources other than impact fees.

The following table shows the declining cost service levels that will occur in the City, due to the projected population growth in the next ten years if no new facilities are added. Service levels are shown in terms of units and in terms of cost. Each of these declining service levels is discussed in more detail in the body of this plan.

TABLE 9: IMPACTS TO SERVICE LEVELS DUE TO NEW DEVELOPMENT IF NO IMPROVEMENTS ARE MADE

	2022 Service Levels – Units	2032 Service Levels – Units	Investment LOS 2022	Investment LOS 2032
Land Acres per Capita/ Amount per Capita	0.015	0.012	\$1,518.86	\$1,152.32
Park Amenities Acres per Capita/ Amount per Capita	0.021	0.016	\$1,209.21	\$917.40
Trail Linear Feet per Capita/ Amount per Capita	2.42	1.83	\$144.96	\$109.98

Identify Excess Capacity

The City has not identified any excess capacity in any of its parks or trail facilities. In other words, the City intends to at least maintain its existing service levels for parks and trail facilities. Therefore, it will need to build additional parks and trail facilities.

Chapter 3: Identify Demands Placed On Existing Public Facilities By New Development Activity At Proposed Level Of Service And How Those Demands Will Be Met

Utah Code 11-36a-302(1)(a)(iv)(v)

Demand Placed on Facilities by New Development Activity

Parks Land. Existing park service levels will decline, due to population growth attributed to new development activity, from the existing cost service level of \$1,518.86 to \$1,152.32 per person by 2032 if no new facilities are acquired or constructed.

TABLE 10: PARK LAND SERVICE LEVEL IMPACTS FROM NEW DEVELOPMENT ACTIVITY, 2022-2032

Year	Population	Population Growth	Unit Service Levels per Capita if No New Facilities	Additional Park (Acres) Needed	Cost Service Levels per Capita If No New Facilities	Additional Investment Needed
2022	7,740		0.015	-	\$1,518.86	\$0
2023	7,957	217	0.015	3.30	\$1,477.44	\$329,593
2024	8,180	223	0.014	3.39	\$1,437.16	\$338,706
2025	8,409	229	0.014	3.48	\$1,398.03	\$347,820
2026	8,644	235	0.014	3.57	\$1,360.02	\$356,933
2027	8,886	242	0.013	3.68	\$1,322.98	\$367,565
2028	9,135	249	0.013	3.78	\$1,286.92	\$378,197
2029	9,391	256	0.013	3.89	\$1,251.84	\$388,829
2030	9,654	263	0.012	3.99	\$1,217.73	\$399,461
2031	9,924	270	0.012	4.10	\$1,184.60	\$410,093
2032	10,202	278	0.012	4.22	\$1,152.32	\$422,244

Park Amenities. The existing level of service of \$1,209.21 per person will decline to \$917.40 per person by 2032, if no new improvements are made.

TABLE 11: PARK AMENITIES SERVICE LEVEL IMPACTS FROM NEW DEVELOPMENT ACTIVITY, 2022-2032

Year	Population	Population Growth	Cost Service Levels per Capita if No New Facilities	Additional Investment Needed (Per Capita)	Unit Service Levels per Capita if No New Facilities
2022	7,740		\$1,209.21	\$0	0.021
2023	7,957	217	\$1,176.24	\$262,399	0.020
2024	8,180	223	\$1,144.17	\$269,655	0.020
2025	8,409	229	\$1,113.01	\$276,910	0.019
2026	8,644	235	\$1,082.75	\$284,165	0.019
2027	8,886	242	\$1,053.26	\$292,630	0.018
2028	9,135	249	\$1,024.56	\$301,094	0.018

Year	Population	Population Growth	Cost Service Levels per Capita if No New Facilities	Additional Investment Needed (Per Capita)	Unit Service Levels per Capita if No New Facilities
2029	9,391	256	\$996.63	\$309,559	0.017
2030	9,654	263	\$969.47	\$318,023	0.017
2031	9,924	270	\$943.10	\$326,488	0.016
2032	10,202	278	\$917.40	\$336,161	0.016

Trail Feet. The existing level of service of \$144.96 per person will decline to \$109.98 per person by 2032, if no new improvements are made.

TABLE 12: TRAIL FEET SERVICE LEVEL IMPACTS FROM NEW DEVELOPMENT ACTIVITY, 2022-2032

Year	Population	Population Growth	Trail Feet Per Capita if No New Facilities	Additional Trail Feet Needed	Cost Service Levels per Capita if No New Facilities	Additional Investment Needed
2022	7,740		2.42	18,700.00	\$144.96	\$0
2023	7,957	217	2.35	19,224.28	\$141.01	\$31,457
2024	8,180	223	2.29	19,763.05	\$137.16	\$32,326
2025	8,409	229	2.22	20,316.32	\$133.43	\$33,196
2026	8,644	235	2.16	20,884.08	\$129.80	\$34,066
2027	8,886	242	2.10	21,468.76	\$126.27	\$35,081
2028	9,135	249	2.05	22,070.35	\$122.82	\$36,095
2029	9,391	256	1.99	22,688.85	\$119.48	\$37,110
2030	9,654	263	1.94	23,324.26	\$116.22	\$38,125
2031	9,924	270	1.88	23,976.59	\$113.06	\$39,140
2032	10,202	278	1.83	24,648.24	\$109.98	\$40,299

Identify the Means by Which the Political Subdivision Will Meet the Growth Demands

The City will need to acquire additional park and trail, facilities in order to maintain its existing service levels. Service levels will decline as a result of population growth unless new facilities are constructed or acquired. Below is a table that identifies the costs of new parks and trail facilities needed due to new growth. The City finds that impact fees are necessary and will be used to maintain the existing service levels for park and trail facilities.

TABLE 13: COST OF FACILITIES DUE TO NEW GROWTH

	Cost
Parks Land	\$3,739,441
Park Amenities	\$2,977,083
Trail Feet	\$356,895
TOTAL	\$7,073,418

In 2017 the City completed a Parks, Trails and Recreation Master Plan that identifies the City's intent to maintain its existing service levels and identifies specific improvements for which impact fees are needed in order to offset the costs associated with growth. The Master Plan, after extensive community engagement notes the following future projects throughout the City:

- Establishing usable park spaces within walking reach of 90%+ of Nibley's residents
- Generating a network of major and minor trails that increase Nibley's internal and regional connectivity
- Preserving critical open spaces for recreation, nature preserves, wildlife corridors and farms

Specifically, the following improvements are listed in the Master Plan:

- Fitness courts
- Tennis courts
- Community gardens
- Dog parks
- Water parks
- Playgrounds
- Pavilions
- Restrooms
- Walking trails
- Other park improvements and amenities

Several parks were identified as needing improvements in order to keep up with the demands of growth. These parks include Firefly Park, Veterans Memorial Park, Riverhawk Park, Discovery Park, Nibley Regional Park, River Hollow Park and Morgan Farm, among others.

Trail improvements identified in the study include City Center Trail, Nature Way Trail, Hyrum Slough Connector Trail, 4000 South Trail, Edgeline Trail and East River Trail.

Chapter 4: Consideration Of All Revenue Sources

Utah Code 11-36a-302(2)

Grants. The City is unaware of any potential grant sources for future park and trail developments. However, should it be the recipient of any such grants, it will then look at the potential to reduce impact fees.

The City has no knowledge of any future parks or trails gifts that will be received by the City. Further, the City has conservatively excluded any gifted properties, or properties acquired through grant funds, in establishing its level of service used in the calculation of impact fees.

Bonds. The City has no outstanding bonds for parks, trails, or recreation; therefore, no credits for bonds will need to be considered in the calculation of impact fees.

Interfund Loans. The City currently has no plans to purchase park, recreation, or trail facilities through any interfund loans and has not done so in the past

Transfer from General Fund. To the extent that the City is able to generate net revenues in its General Fund, it may choose to transfer all or a portion of the net revenues to the City's capital fund. It is most likely that, if net revenues should be generated for park facilities, they will be used to raise existing service levels rather than offset the demands generated by new development which is anticipated to be offset with impact fees.

Impact Fees. Because of the growth anticipated to occur in the City, impact fees are necessary and are a viable means of allowing new development to pay for the impacts that it places on the existing system. This IFFP is developed in accordance with legal guidelines so that an Impact Fee Analysis for Parks and Trails may be prepared, and the City may charge impact fees for Parks and Trails.

Anticipated or Accepted Dedications of System Improvements. Any item that a developer funds must be included in the IFFP if a credit against impact fees is to be issued and must be agreed upon with the City before construction of the improvements.

Certification

Zions Bank Public Finance certifies that the attached impact fee facilities plan:

1. Includes only the costs of public facilities that are:
 - a. allowed under the Impact Fees Act; and
 - b. actually incurred; or
 - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. Does not include:
 - a. costs of operation and maintenance of public facilities;
 - b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
3. Offsets costs with grants or other alternate sources of payment; and
4. Complies in each and every relevant respect with the Impact Fees Act.

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Nibley City

DRAFT Sanitary Sewer Impact Fee Analysis
November 2022



ZIONS PUBLIC FINANCE, INC.

TABLE OF CONTENTS

Contents

Table of Contents	1
Contents	1
Executive Summary	3
Sewer System Overview	3
Level of Service – Equivalent Residential Connection	3
Sewer Service Area	3
Existing Excess Capacity	4
Collection System	4
Lift Station	4
New Construction Costs	4
Wastewater Impact Fee Calculation	4
Non-Standard Demand Adjustments	5
Chapter 1: Overview of the SANITARY SEWER Impact Fees	6
Summary	6
Costs to be Included in the Impact Fee	6
Utah Code Legal Requirements	6
Notice of Intent to Prepare Impact Fee Analysis	6
Preparation of Impact Fee Analysis	6
Certification of Impact Fee Analysis	8
Chapter 2: Impact From Growth Upon the CITY’s Facilities and Level of Service	9
Service Area	9
Sewer Demands	9
Existing and Proposed LOS Analysis	9
Chapter 3: Impact on Capacity from Development Activity	10
Excess Capacity	10
Chapter 4: System Improvements Required from Development Activity	11
Future 10-Year Wastewater Capital Projects	11
Chapter 5: Proportionate Share Analysis	12
Maximum Legal Wastewater Impact Fee per ERC	12
Existing Projects with Excess Capacity	12
New Construction	12
Consultant Fees	13

Summary of Gross Impact Fee	13
Credits Against Impact Fees.....	14
Non-Standard Demand Adjustments.....	14
Certification.....	16

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EXECUTIVE SUMMARY

Nibley City commissioned Zions Public Finance, Inc. (ZPFI) to calculate the City's impact fees in accordance with Utah State Law. An impact fee is a payment of money imposed upon new development activity to mitigate the impact of new development on public infrastructure. In conjunction with this project, JUB Engineers, Inc. prepared the Sanitary Sewer Impact Fee Facilities Plan (IFFP) dated May 2022.

The recommended impact fee structure presented in this analysis has been prepared to satisfy the Impact Fees Act, Utah Code Ann. § 11-36a-101 et. seq., and represents the maximum impact fees that the City may assess. The City will be required to use revenue sources other than impact fees to fund any projects identified in the IFFP that constitute repair and replacement, cure any existing deficiencies, or increase the level of service for existing users.

Sewer System Overview

Level of Service – Equivalent Residential Connection

Level of service (LOS) defines the sewer demands that a typical residential user, expressed as an Equivalent Residential Connection (ERC), will require and should pay for through impact fees. Impact fee law prohibits the use of impact fees to increase the LOS above the current service levels. At times, a sewer system may need to increase the LOS to cure an existing deficiency, but projects that fix deficiencies must be paid for through non-impact fee revenues and a credit must be provided to the impact fee payer.

The following table shows that the City desires to maintain existing service levels in the future.

TABLE 1: LEVEL OF SERVICE

Criteria	Existing LOS	Proposed LOS
Pipeline Capacity		
Percent of full capacity for 8-in to 15-in pipes	< 75%	< 75%
Percent of full capacity for pipes larger than 18-in	< 85%	< 85%
Collection Capacity (Lift Stations)		
Peak flow entering a lift station	< 85% Pumping Capacity	< 85% Pumping Capacity
General Assets		
Adequacy of Existing Facilities to Serve Costumers	An additional pump will be needed prior to 2031	

SOURCE: NIBLEY CITY WATER IMPACT FEE FACILITIES PLAN, JUB ENGINEERS MAY 2022

In 2021 the City served 2,129 ERCs and is anticipated to grow to approximately 3,328 ERCs by 2031, for an increase of 1,199 ERCs over the 10-year period. A residential unit is equated to one ERC and non-residential properties are converted to the appropriate number of ERCs.

Sewer Service Area

The Service Area covers the entire City for the purpose of calculating impact fees.

Existing Excess Capacity

Collection System

The IFFP identifies the percentage of existing excess capacity in the sewer collection system. Acquired at an actual cost of \$8,620,236, existing users consume 37.5% of capacity with 21.1% of the capacity available for 10-year growth. The remaining 41.4% is available for growth beyond 10 years.

Lift Station

The City has excess capacity available in the existing Hansen lift station for sewer collection. The IFFP identifies the percentage of existing excess capacity in the lift station. Acquired at an actual cost of \$137,096, the wastewater collection system has an existing use of 52.3% with 47.7% of the capacity consumed by 10-year growth.

Summary of Excess Capacity

TABLE 2: EXISTING EXCESS CAPACITY

Available Excess Capacity	Collection	Lift Station
Existing Use	37.5%	52.3%
10-Yr Growth	21.1%	47.7%
Beyond 10 Yrs	41.4%	0%
TOTAL	100.00%	100.00%

SOURCE: NIBLEY CITY WATER IMPACT FEE FACILITIES PLAN, JUB ENGINEERS MAY 2022

New Construction Costs

The IFFP identifies a total of \$222,268 in new construction costs over the next 10 years.

Wastewater Impact Fee Calculation

The impact fee calculation is shown in the table below and results in a maximum fee of \$1,450.37 per ERC.

TABLE 3: PROPORTIONATE SHARE ANALYSIS

SUMMARY	
Existing Excess Capacity	\$1,572.08
New Construction	\$185.38
Consultant Costs	\$6.97
Credit - Impact Fee Fund Balance	\$0.00
Credit - Outstanding Bonds	(\$314.06)
Maximum Fee Per ERC	\$1,450.37

Residential fees will be charged on a per door basis, with single-family homes charged the equivalent of a 1" meter size and multi-family units charged 82 percent of a single-family ERC based on reduced number of fixture units generally found in multi-family units as compared to single-family residential. Nonresidential impact fees are calculated by multiplying the 1" meter impact fee by the proportionately-adjusted AWWA ratio as shown in the table below.

TABLE 4: MAXIMUM IMPACT FEE PER ERC OR METER SIZE IN YEAR 2023

Sewer Meter Sizes	AWWA Ratio	Adjusted AWWA Ratio	Max Nibley Fees
Multi-Family (82%) per Door			\$1,189
1" Single-Family Per Door	1.67	1.00	\$1,450
1.5" Sewer Meter	3.33	1.99	\$2,892
2" Sewer Meter	5.33	3.19	\$4,629
3" Sewer Meter	10.00	5.99	\$8,685
4" Sewer Meter	16.67	9.98	\$14,478

Non-Standard Demand Adjustments

The City reserves the right under the Impact Fees Act (Utah Code Ann. § 11-36a-402(1)(c, d)) to assess an adjusted fee to respond to unusual circumstances and to ensure that the impact fees are assessed fairly. The impact fee ordinance should include a provision that permits adjustment of the fee for a development based upon studies and data submitted by the developer that indicate a more realistic and accurate impact upon the City's infrastructure.

CHAPTER 1: OVERVIEW OF THE SANITARY SEWER IMPACT FEES

Summary

An impact fee is intended to recover the City's costs of building excess wastewater capacity from new residential or non-residential development rather than passing these growth-related costs on to existing users through rates.

The Utah Impact Fees Act allows only certain costs to be included in an impact fee so that only the fair cost of expansionary projects or existing unused capacity paid by the City is assessed through an impact fee. Eligible costs include future projects, historic costs of existing assets that still have capacity available to serve growth, future or outstanding debt related to these eligible projects, and certain professional expenses related to planning for growth. Project improvements that only serve a specific development or subdivision cannot be included. System improvements that cure a deficiency or enhance the Level of Service (LOS) cannot be included without an appropriate credit.

The impact fee analysis provides documentation of a fair comparison, or rational nexus, between the impact fee charged to new development and the demands that new growth will have on the system.

Costs to be Included in the Impact Fee

The impact fees proposed in this analysis are calculated based upon:

- Buy-in to existing, excess capacity;
- New capital infrastructure that will serve new development; and
- Professional and planning expenses related to the construction of system improvements that will serve new development.

The costs that cannot be included in the impact fee are as follows:

- Projects that cure system deficiencies for existing users;
- Projects that increase the level of service above that which is currently provided;
- Operations and maintenance costs;
- Costs of facilities funded by grants or other funds that the City does not have to repay;
- Interest costs related to outstanding or future bonds that have been issued to fund non-impact fee eligible projects such as repair and replacement and curing deficiency; and
- Costs of reconstruction of facilities that do not have capacity to serve new growth.

Utah Code Legal Requirements

Utah law requires that entities prepare an Impact Fee Analysis (IFA) before enacting an impact fee. Utah law also requires that entities give notice of their intent to prepare and adopt an IFA. This IFA follows all legal requirements as outlined below. The City has retained Zions Public Finance, Inc. (ZPFI) to prepare this Impact Fee Analysis in accordance with legal requirements.

Notice of Intent to Prepare Impact Fee Analysis

A local political subdivision must provide written notice of its intent to prepare an IFA before preparing the Plan (Utah Code §11-36a-503). This notice must be posted on the Utah Public Notice website.

Preparation of Impact Fee Analysis

Utah Code requires that each local political subdivision, before imposing an impact fee, prepare an impact fee analysis. (Utah Code 11-36a-304).

Section 11-36a-304 of the Utah Code outlines the requirements of an impact fee analysis:

- (1) An impact fee analysis shall:
 - (a) identify the anticipated impact on or consumption of any existing capacity of a public facility by the anticipated development activity;
 - (b) identify the anticipated impact on system improvements required by the anticipated development activity to maintain the established level of service for each public facility;
 - (c) demonstrate how the anticipated impacts described in subsections (1)(a) and (b) are reasonably related to the anticipated development activity;
 - (d) estimate the proportionate share of:
 - (i) the costs for existing capacity that will be recouped; and
 - (ii) the costs of impacts on system improvements that are reasonably related to the new development activity; and
 - (e) identify how the impact fee was calculated.
- (2) In analyzing whether or not the proportionate share of the costs of public facilities are reasonably related to the new development activity, the local political subdivision or private entity, as the case may be, shall identify, if applicable:
 - (a) the cost of each existing public facility that has excess capacity to serve the anticipated development resulting from the new development activity;
 - (b) the cost of system improvements for each public facility;
 - (c) other than impact fees, the manner of financing for each public facility, such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;
 - (d) the relative extent to which development activity will contribute to financing the excess capacity of and system improvements for each existing public facility, by such means as user charges, special assessments, or payment from the proceeds of general taxes;
 - (e) the relative extent to which development activity will contribute to the cost of existing public facilities and system improvements in the future;
 - (f) the extent to which the development activity is entitled to a credit against impact fees because the development activity will dedicate system improvements or public facilities that will offset the demand for system improvements, inside or outside the proposed development;
 - (g) extraordinary costs, if any, in servicing the newly-developed properties; and

- (h) the time-price differential inherent in fair comparisons of amounts paid at different times.

Certification of Impact Fee Analysis

Utah Code states that an Impact Fee Analysis shall include a written certification from the person or entity that prepares the Impact Fee Analysis. This certification is included at the conclusion of this analysis.

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CHAPTER 2: IMPACT FROM GROWTH UPON THE CITY'S FACILITIES AND LEVEL OF SERVICE

Utah Code 11-36a-304(1)(a)

Service Area

The service area includes all areas within the City's boundaries.

Sewer Demands

The table below shows Equivalent Residential Connection (ERC) growth projections.

TABLE 5: GROWTH IN DEMAND

Growth - ERCs	ERCs
2021	2,129
2022	2,226
2023	2,328
2024	2,434
2025	2,546
2026	2,662
2027	2,783
2028	2,911
2029	3,044
2030	3,328
2031	3,328
Growth in ERCs, 2021-2031	1,199

SOURCE: NIBLEY CITY WATER IMPACT FEE FACILITIES PLAN, JUB ENGINEERS MAY 2022

Existing and Proposed LOS Analysis

Level of service defines how much of the sewer system a typical residential user, defined as an ERC, will require and can fairly fund through impact fee revenue. LOS is based upon historic observed sewer demands per ERC. Impact fee law prohibits the use of impact fees to increase the LOS above the current demands. At times, a wastewater system may need to increase a LOS to cure an existing deficiency, but projects that fix deficiencies must be paid for by non-impact fee revenues and a credit must be provided to the impact fee payer.

TABLE 6: SERVICE LEVELS

Criteria	Existing LOS	Proposed LOS
Pipeline Capacity		
Percent of full capacity for 8-in to 15-in pipes	< 75%	< 75%
Percent of full capacity for pipes larger than 18-in	< 85%	< 85%
Collection Capacity (Lift Stations)		
Peak flow entering a lift station	< 85% Pumping Capacity	< 85% Pumping Capacity
General Assets		
Adequacy of Existing Facilities to Serve Costumers	An additional pump will be needed prior to 2031	

CHAPTER 3: IMPACT ON CAPACITY FROM DEVELOPMENT ACTIVITY

Utah Code 11-36a-304(1)(b)(c)

Excess Capacity

The City has the right to increase the established LOS in the future by constructing facilities that will provide greater capacity per ERC, but such LOS increases cannot be funded through impact fees. If the proposed LOS is higher than the existing LOS, then a deficiency exists and will be cured through sources of funding other than impact fees. Many of the future projects identified in the IFFP will serve existing residents, as well as new development, which means a credit must be included in the impact fee calculation to offset the cost of constructing infrastructure that cures deficiencies for existing users.

With growth of 1,199 ERCs over the next 10 years (2021-2031), new growth represents 21.1% of the total capacity of the existing collection system. This means that new development between 2021 and 2031 is responsible for 21.1% of the costs of the existing collection system, or \$1,819,481.

TABLE 7: EXISTING EXCESS CAPACITY—COLLECTION SYSTEM

Collection	
Existing Capacity Cost - Collection	\$8,620,236
Percent to 10-Yr Growth	21.1%
Collection Cost to 10-Yr Growth	\$1,819,481

New growth represents 47.7% of the total capacity of the existing lift station. This means that new development between 2021 and 2031 is responsible for 47.7% of the costs of the existing lift station capacity system, or \$65,443.

TABLE 8: EXISTING EXCESS CAPACITY—LIFT STATION

Lift Station	
Existing Capacity Cost – Lift Station	\$137,096
Percent to 10-Yr Growth	47.7%
Lift Station Cost to 10-Yr Growth	\$65,443

CHAPTER 4: SYSTEM IMPROVEMENTS REQUIRED FROM DEVELOPMENT ACTIVITY

Utah Code 11-36a-304(1)(b)(c)

Future 10-Year Wastewater Capital Projects

The City intends to build the following projects within the impact fee planning horizon to serve the demands of new growth.

TABLE 9: IMPACT-FEE ELIGIBLE CAPITAL PROJECTS

ID	Project Description	Total Project Cost	Cost to Existing	Cost to 10-Yr Growth	Cost to Future Growth
A	24" trunkline from 2600 S upstream to 2960 S	\$961,000	N/A	\$73,104	\$887,896
B	Southwest regional LS and force main along with a 10" gravity sewer line from the new LS to 3400 S	\$1,941,000	N/A	\$147,654	\$1,793,346
C	Add a third pump to Hansen lift station	\$151,000	N/A	\$1,510	\$149,490
D	Upsize the existing 12" trunk line to 24" from 2600 S upstream to 2960 S	\$1,138,000	N/A	N/A	\$1,138,000
E	Upgrade the pumps and force main at the Hansen LS	\$3,983,000	N/A	N/A	\$3,983,000
F	Install a diversion and 8" pipe to send peak flows across HWY 165	\$755,000	N/A	N/A	\$755,000
G	Northeast regional LS and force main with a railroad crossing on 2200 S with a 8" gravity sewer line from the new LS to 800 W	\$977,000	N/A	N/A	\$977,000
TOTAL		\$9,906,000		\$222,268	\$9,683,732

SOURCE: NIBLEY CITY WATER IMPACT FEE FACILITIES PLAN, JUB ENGINEERS MAY 2022

The IFFP shows that none of the total \$9,906,000 collection new project costs is needed to benefit existing users. Therefore, no credits need to be made for future projects. However, the City has a bond outstanding for existing projects for which credits need to be made.

The City may choose to upsize some of its existing lines in order to expand capacity and thereby meet the needs of new development. Proposed lines inside new development could be upsized from the minimum standard of 8" to add capacity to the system to serve new development.

CHAPTER 5: PROPORTIONATE SHARE ANALYSIS

The Impact Fees Act requires the Impact Fee Analysis to estimate the proportionate share of the future and historic cost of existing system improvements that benefit new growth and can be recouped through impact fees. The impact fee for existing assets must be based on the actual costs while the fees for construction of new facilities must be based on reasonable future costs of the system. This chapter will show that the proposed impact fee for system improvements is reasonably related to the impact on the wastewater system from future development activity.

Maximum Legal Wastewater Impact Fee per ERC

Existing Projects with Excess Capacity

The existing excess capacity to be consumed over the next ten years is \$1,819,481 for the collection system and \$65,443 for the lift station. With projected growth of 1,199 ERCs over the next 10 years, the cost per ERC is \$1,517.50 for buy-in to the collection system and \$54.58 to the lift station.

TABLE 10: PROPORTIONATE SHARE ANALYSIS-EXCESS CAPACITY BUY-IN

Collection	
Existing Capacity Cost - Collection	\$8,620,236
Percent to 10-Yr Growth	21.1%
Collection Cost to 10-Yr Growth	\$1,819,481
Growth in ERCs, 2021-2031	1,199
Collection Cost per ERC	\$1,517.50
Lift Station	
Existing Capacity Cost	\$137,096
Percent to 10-Yr Growth	47.7%
Cost to 10-Yr Growth	\$65,443
Growth in ERCs, 2021-2031	1,199
Lift Station Cost per ERC	\$54.58

New Construction

Tables 10 summarizes the cost of future system improvements to be constructed within the next 10 years and what portion of these costs are attributable to 10-year growth.

TABLE 11: PROPORTIONATE SHARE ANALYSIS- NEW CONSTRUCTION

Collection	
New Improvements	\$9,906,000
10-Yr Growth Amount	\$222,268
Growth in ERCs, 2021-2031	1,199
Collection Cost per ERC	\$185.38

Consultant Fees

The Impact Fees Act allows for fees charged to include the reimbursement of engineering and consultant costs incurred in the preparation of the IFFP and IFA.

TABLE 12: PROPORTIONATE SHARE ANALYSIS – CONSULTANT FEES

Consultant Costs	
JUB	\$2,563
ZPFI	\$5,800
Total Consultant Costs	\$8,363
Growth in ERCs, 2021-2031	1,199
Cost per ERC	\$6.97

Summary of Gross Impact Fee

The gross impact fee is the impact calculated before credits for deficiencies are taken into account.

TABLE 13: PROPORTIONATE SHARE ANALYSIS- GROSS IMPACT FEE PER ERC

SUMMARY OF IMPACT FEE CALCULATION	
Buy-In Costs	\$1,572.08
New Construction	\$185.38
Consultants	\$6.97
Impact Fee Fund Balance Credit	\$0.00
Credits for Outstanding Bond	(\$314.06)
Total Max Impact Fee	\$1,450.37

Residential fees will be charged on a per door basis, with single-family homes charged the equivalent of a 1" meter size and multi-family units charged 82 percent of a single-family ERC based on reduced number of fixture units generally found in multi-family units as compared to single-family residential. Nonresidential impact fees are calculated by multiplying the 1" meter impact fee by the proportionately-adjusted AWWA ratio as shown in the table below.

TABLE 14: MAXIMUM IMPACT FEE PER ERC OR METER SIZE IN YEAR 2023

Sewer Meter Sizes	AWWA Ratio	Adjusted AWWA Ratio	Max Nibley Fees
Multi-Family (82%)			\$1,189
1" Single-Family Per Door	1.67	1.00	\$1,450
1.5" Sewer Meter	3.33	1.99	\$2,892
2" Sewer Meter	5.33	3.19	\$4,629
3" Sewer Meter	10.00	5.99	\$8,685
4" Sewer Meter	16.67	9.98	\$14,478

TABLE 15: MAXIMUM IMPACT FEE PER ERC OR METER SIZE PER YEAR THROUGH 2028

Sewer Meter Size	2023	2024	2025	2026	2027	2028
Multi-Family	\$1,189	\$1,214	\$1,240	\$1,265	\$1,290	\$1,315
1" Single-Family Per Door	\$1,450	\$1,481	\$1,512	\$1,543	\$1,574	\$1,603
1.5" Sewer Meter	\$2,892	\$2,953	\$3,016	\$3,077	\$3,138	\$3,197
2" Sewer Meter	\$4,629	\$4,727	\$4,827	\$4,925	\$5,022	\$5,117

Sewer Meter Size	2023	2024	2025	2026	2027	2028
3" Sewer Meter	\$8,685	\$8,868	\$9,056	\$9,241	\$9,423	\$9,601
4" Sewer Meter	\$14,478	\$14,783	\$15,097	\$15,405	\$15,707	\$16,005

Credits Against Impact Fees

Credits for Outstanding Bond

Nibley City has an outstanding 2004 Sewer Revenue Bond in the amount of \$7,739,000 for which credits must be made so that new development does not pay twice. Credits must be made for the portion of the bond that benefits existing development (i.e., the capacity of existing facilities used by existing development). The impact fees collected will be used to pay new development's share of its buy-in to existing, excess capacity and therefore no credits need to be made for new development's share of the bond.

TABLE 16: PERCENT OF BOND BENEFITTING EXISTING DEVELOPMENT

	Collection	Lift Station	TOTAL
% Benefitting Existing Development	37.5%	52.3%	
Total Amount	\$7,152,498	\$586,502	\$7,739,000
Amount to Existing Development	\$2,680,665	\$306,534	\$2,987,199

Therefore, 38.6 percent of bond payments benefit existing development, calculated by dividing \$2,987,199 by \$7,739,000. The maximum fee is calculated by subtracting the net present value (NPV) of the annual bond payments that benefit existing development from the gross impact fee.

TABLE 17: BOND CREDITS AND MAXIMUM IMPACT FEES

Date	Total P+I	% to Existing Development	ERCs	Payment	NPV	Maximum Fee
05/01/2022	-					
05/01/2023	\$260,000	\$100,358.17	2,328	\$43.11	\$314.06	\$1,450.37
05/01/2024	\$270,000	\$104,218.10	2,434	\$42.81	\$283.51	\$1,480.92
05/01/2025	\$270,000	\$104,218.10	2,546	\$40.94	\$252.04	\$1,512.39
05/01/2026	\$270,000	\$104,218.10	2,662	\$39.15	\$221.18	\$1,543.25
05/01/2027	\$270,000	\$104,218.10	2,783	\$37.44	\$190.87	\$1,573.56
05/01/2028	\$270,000	\$104,218.10	2,911	\$35.81	\$161.07	\$1,603.37
05/01/2029	\$290,000	\$111,937.96	3,044	\$36.78	\$131.70	\$1,632.73
05/01/2030	\$290,000	\$111,937.96	3,328	\$33.64	\$100.19	\$1,664.24
05/01/2031	\$290,000	\$111,937.96	3,328	\$33.64	\$70.56	\$1,693.87
05/01/2032	\$324,000	\$125,061.72	3,480	\$35.94	\$39.75	\$1,724.68
05/01/2033	\$53,000	\$20,457.63	3,639	\$5.62	\$5.62	\$1,758.81
After 2033						\$1,764.43

Non-Standard Demand Adjustments

The City reserves the right under the Impact Fees Act (Utah Code Ann. § 11-36a-402(1)(c, d)) to assess an adjusted fee to respond to unusual circumstances and to ensure that the impact fees are assessed fairly. The impact fee ordinance should include a provision that permits adjustment of the fee for a development

based upon studies and data submitted by the developer that indicate a more realistic and accurate impact upon the City's infrastructure.

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CERTIFICATION

Zions Public Finance, Inc. certifies that the attached impact fee analysis:

1. includes only the cost of public facilities that are:
 - a. allowed under the Impact Fees Act; and
 - b. actually incurred; or
 - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
 - a. costs of operation and maintenance of public facilities; or
 - b. cost for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
3. offset costs with grants or other alternate sources of payment; and
4. complies in each and every relevant respect with the Impact Fees Act.

5 IMPACT FEE FACILITIES PLAN (IFFP)

5.1 INTRODUCTION

The purpose of the Sanitary Sewer Impact Fee Facilities Plan (IFFP) is to determine the impacts placed on the sewer system from future development as outlined in Utah Administrative Code (UAC) Title 11 Chapter 36a-301 and 36a-302. The IFFP outlines which improvements in the CFP can be funded through impact fees. **Appendix F** contains the detailed requirements for the IFFP from as listed in UAC. This IFFP utilizes information from the collection system model and CFP to provide the information that becomes the foundation for the Impact Fee Analysis (IFA). The IFA will be prepared by a financial consultant.

Table 5-1 lists the flow values per ERU that were determined during the flow metering and modeling process and are used for the collection related aspects of this IFFP.

Table 5-1: Sewer Collection Peak Flows per ERU

Sewer Collection Peak Flow Values Per ERU	
Existing ERU's	
Description	Value
People per ERU	3.8
¹ Average Flow per Person (GPD)	90
Peak Flow per ERU (GPM)	0.36 GPM

¹Based on sewer flow meter data collected in 2013.

5.2 REQUIRED IFFP ELEMENTS

The following general tasks and elements are required as part of the IFFP:

- Identify the existing Level of Service (LOS)
- Establish a proposed LOS.
- Identify any excess capacity to accommodate future growth at the proposed LOS
- Identify demands placed upon existing system by new development activity at the proposed LOS and the means by which the City will meet those growth demands.
- Consider potential revenue sources to finance the impacts on system improvements

5.3 EXISTING LOS

The following sections provide performance standards, or the LOS required for collection pipes and lift stations. Also provided is a description of how the existing systems meet the LOS.

5.3.1 Collection Pipes

The LOS for the collection pipes is determined based on the percent full as compared to the full pipe capacity. The percent of full capacity must be less than 75% for pipes 8-in to 15-in and 85% for pipes larger than 18-in during the peak flow in the collection system pipes.

5.3.2 Lift Stations

The LOS for sewer lift stations in the collection system is determined based on the peak flow that enters each station. The peak flow entering a lift station must be less than 85% of the pumping capacity of the lift station pumps assuming that one pump in the pump station is not running.

Currently, Hansen Lift Station is operating under capacity. An additional pump will be needed prior to 2031 to maintain the LOS and to serve future growth.

5.4 PROPOSED LOS

The proposed LOS values for collection pipes and lift stations are the same as the existing LOS values provided in section 5.3.

5.5 EXCESS CAPACITY

5.5.1 Collection System Pipes

The flows from future development will be met through a combination of available excess capacity in the existing collection system pipes and improvements to the existing system that will add capacity.

The excess capacity available in the existing collection system pipes was evaluated based on the total ERU values for the modeled pipe segments in the system.

In year 2000 the system was designed for a peak flow of 2,045 GPM. This is equivalent to 5,680 collection system ERU's (see record drawings 3 of 140). The existing ERU's are equivalent to 2,129 and the projected ERU's for the year 2031 are 3,328. Therefore, there will be an additional 1,199 ERU's during the next 10 years.

Table 5-2 lists the percent utilization for the current and future collection system.

Table 5-2: Collection System Pipe Utilization

Collection System Pipe Excess Capacity		
	ERU	Percent Utilization
2021	2,129	37.5%
2031	3,328	58.6%
Design	5,680	100%

The amount of the available capacity in the existing collection system that will be utilized by the 10-year growth is 21.1%.

5.5.2 Lift Stations

The excess capacity available in the existing Hansen lift station was evaluated based on the total ERU values.

The Hansen Lift Station has a current capacity of 1,688 GPM (with the existing two pumps). The Level of Service is 85% of the design capacity which is equivalent to 1,435 GPM. The existing peak flow at the Hansen lift station is equivalent to 750 GPM during wet weather and the projected peak flow for the year 2031 is 1,450 GPM, therefore there will be an additional 1,035 GPM during the next 10 years. A third pump will need to be added within the next 10 years.

Table 5-3 lists the percent utilization for the Hansen lift station.

Table 5-3: Hansen Lift Station Utilization

Hansen Lift Station Utilization		
	GPM	Percent Utilization
2021	750	52.3%
2031	1450	101.0%
Design	1435	100%

The amount of the available capacity in the Hansen lift station that will be utilized by the 10-year growth is 47.7%.

5.6 IMPROVEMENTS TO MEET FUTURE GROWTH DEMANDS

The previous sections of this master plan outline the assumptions and methods used to quantify the existing flows in the system and the flows projected for the future. There were no existing deficiencies as identified through the computer modeling that is explained in Section 2 of this report. Future deficiencies were identified by creating future model scenarios as identified in Section 3 of this report. The existing and future deficiencies are based on the established LOS criteria.

5.7 2031 IMPROVEMENT PLAN

Only the projects that need to be constructed in the next 10 years (prior to 2031) will be included in the calculation of the sewer impact fee. The projects are planned to serve development that will occur after 2031 so the entire cost of those projects is not eligible for reimbursement through current impact fees. The costs for each of the collection projects have been split into the following three categories:

1. The portion of the project that current City residents should pay. (Cost to Existing)
2. The portion of the project that can be paid for through new development impacts projected for the next 10 years. (Cost to 10-Year Growth)
3. The portion of the project that is needed to serve the growth that is anticipated for years 2031 to build-out. (Cost to Growth After 2031)

5.7.1 Collection Project Plan

Table 5-4 lists the collection projects needed between now and 2031 along with the opinion of probable cost for each project. For the pipe projects, it was assumed that existing users will pay for the portion of the pipe materials that is equivalent to the percentage of the pipe capacity that will be used by existing users. New sewer connection users will pay for the remainder of the costs because the new pipes are not needed if no new growth occurs.

Table 5-3: 10-Year Collection Project Cost Allocation

10-YEAR COLLECTION PROJECT COST ALLOCATIONS					
PRIORITY	PROJECT DESCRIPTION	TOTAL PROJECT COST	COST TO EXISTING	COST TO 10-YEAR GROWTH	COST TO GROWTH AFTER 2031
A	Build new 24" trunkline from 2600 S upstream to 2960 S	\$ 961,000	\$ -	\$ 73,104	\$ 887,896
B	Build new South West Regional LS and force main along with a 10" gravity sewer line from the new LS to 3400 S	\$ 1,941,000		\$ 147,654	\$ 1,793,346
C	Add a third pump to Hansen lift station	\$ 151,000	\$ -	\$ 1,510	\$ 149,490
D	Upsize the existing 12" trunkline to 24" from 2600 S upstream to 2960 S	\$ 1,138,000	\$ -	\$ -	\$ 1,138,000
E	Upgrade the pumps and forcemain at the Hansen LS	\$ 3,983,000	\$ -	\$ -	\$ 3,983,000
F	Install a diversion and 8" pipe to send peak flows across HWY 165	\$ 755,000	\$ -	\$ -	\$ 755,000
G	Build new North East Regional LS and force main with a railroad crossing on 2200 S. with a 8" gravity sewer line from the new LS to 800 W.	\$ 977,000	\$ -	\$ -	\$ 977,000
		\$ 9,906,000	\$ -	\$ 222,268	\$ 9,683,732

A more detailed table of the 10-Year projects that provides the cost split percentages for materials and for construction for each time frame by project is provided in **Appendix E**.

5.8 CONSIDERATION OF REVENUE SOURCES TO FINANCE IMPROVEMENTS

Section 302 (2) of the Impact Fee Act requires the City to “generally consider all revenue sources, including impact fees and anticipated dedication of system improvements, to finance the impacts on system improvements.” By doing so, the City ensures fair and equitable treatment among users and concludes whether impact fees are the most appropriate method to fund the growth.

There are a number of potential revenue sources to consider including:

- Grants
- Bonds
- Impact Fees
- Anticipated or Accepted Dedications of System Improvements

5.8.1 Grants

Impact fees may not reimburse projects funded through grants. No grants have been included in the project costs. If grants are received, costs will be adjusted accordingly.

5.8.2 Bonds

The City could issue bonds in the future in order to fund their sewer system. No bonds are planned and therefore no costs associated with bond issuance have been included in the calculation of impact fees.

5.8.3 Impact Fees

Because of the growth anticipated to occur in the City, impact fees are a viable means of allowing new development to pay for the impacts that it places on the existing system. This IFFP is developed in accordance with legal guidelines so that an Impact Fee Analysis for the sewer system may be prepared and the City may charge impact fees. This will prevent existing users from subsidizing new growth.

5.8.4 Anticipated or Accepted Dedications of System Improvements

Developers in Nibley have not historically dedicated system improvements without requesting a credit for the work. Any item that a developer funds, must be included in the IFFP if a credit against impact fees is to be issued, and must be agreed upon with the City before construction of the improvements.

5.9 IFFP CERTIFICATION

This IFFP has been prepared in accordance with Utah Code Title 11 Chapter 36a, Impact Fee Act. In accordance with Utah Code Title 11-36a-306(1), J-U-B Engineers, Inc. makes the following certification.

"I certify that the attached impact fee facilities plan:

1. includes only the costs of public facilities that are:

a. allowed under the Impact Fees Act; and

b. actually incurred; or

c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;

2. does not include:

a. costs of operation and maintenance of public facilities;

b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; or

c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement; and

3. complies in each and every relevant respect with the Impact Fees Act."

A handwritten signature in blue ink, reading "Christopher B. Slater", positioned above a horizontal line.

Dated: 8/4/21

J-U-B ENGINEERS, INC.



Nibley City

DRAFT Water Impact Fee Analysis
November 2022



ZIONS PUBLIC FINANCE, INC.

CONTENTS

Executive Summary	2
Water Service Levels	2
Water Service Area	2
Water System Impact Fee Calculation	3
Chapter 1: Overview of The Water Impact Fees	5
Summary	5
Costs to be Included in the Impact Fee	5
Utah Code Legal Requirements	5
Notice of Intent to Prepare Impact Fee Analysis	5
Preparation of Impact Fee Analysis	5
Certification of Impact Fee Analysis	6
Chapter 2: Impact From Growth Upon the City's Facilities and Level of Service	7
Projected Water Demands	7
Water Service Area	7
Existing and Proposed LOS Analysis	7
Chapter 3: Impact on Capacity from Development Activity	9
Excess Capacity and Deficiency	9
Chapter 4: System Improvements Required from Development Activity	10
Chapter 5: Proportionate Share Analysis	11
Maximum Legal Water Impact Fee per ERC	11
Buy-In to Existing, Excess Capacity	11
New Construction	11
Consultant Costs	11
Impact Fee Fund Balance	12
Credits Against Impact Fees	12
Summary of Maximum Impact Fees	13
Certification	14

EXECUTIVE SUMMARY

An impact fee is a one-time fee imposed on new development activity to mitigate the impact of new development on capital facilities. In conjunction with this Impact Fee Analysis, J-U-B Engineers prepared the *Nibley City Corporation Culinary Water Impact Fee Facilities Plan (IFFP)* dated March 2022. The IFFP forms the basis for this impact fee analysis.

The recommended impact fee structure presented in this analysis has been prepared to satisfy the Impact Fees Act, Utah Code Ann. § 11-36a-101 et. seq., and represents the maximum impact fees Nibley City Corporation (“City”) may assess. The City will be required to use revenue sources other than impact fees to fund any projects that constitute repair and replacement, cure any existing deficiencies, or increase the level of service for existing users.

Water Service Levels

Level of service (LOS) defines the water capital facility demands that a typical Equivalent Residential Connection (ERC), will require and should pay for with impact fees. The IFFP defines existing and proposed service levels as follows per ERC:

- Source component – 1.86 gpm per ERC
- Rights component –
 - Diversion Limit: 0.001667 cfs/ERC (1.86 gpm/ERC)
 - Annual Diversion Volume: 1.21 ac-ft/ERC (0.748/ERC)
- Storage component – 1,076.5 gal per ERC
 - Fire Storage: 3,500 gpm for 3 hours (630,000 gallons)
- Delivery component –
 - Peak Day Demand
 - 1.86 gpm/ERC with 40 psi residual system pressure during peak day demand
 - Peak Instantaneous Demand
 - 2.72 gpm/ERC with 40 psi residual system pressure during peak instantaneous demand
 - Peak Day Demand with Fire Flow Demand
 - 1.86 gpm/ERC with 20 psi during peak day demands with fire
 - 1,500 gpm for residential homes >3,600 square feet
 - 3,500 gpm for Nibley City Elementary

Source: *Nibley City Impact Fee Facilities Plan; J-U-B Engineers, INC.*

Water Service Area

There is one service area for culinary water that encompasses the boundaries of Nibley City.

Excess Capacity

There is existing excess capacity of \$1,060,448 in the water system. New development can be required to buy into this existing, excess capacity at the actual cost of the improvements at the time they were acquired.

TABLE 1: EXCESS CAPACITY IN EXISTING SYSTEM

	<u>Cost</u>	<u>Percent of Excess Capacity</u>	<u>Cost of excess capacity</u>
Nelson well	\$596,467	33%	\$196,834
Nelson well additions	\$7,969	33%	\$2,630
2016 Well construction Water Development fund	\$664,984	40%	\$265,994
2016 Well construction	\$417,032	40%	\$166,813
2017 Well construction	\$297,933	40%	\$119,173
2017 Well Construction	\$772,510	40%	\$309,004
TOTAL			\$1,060,448

Source: Nibley City Impact Fee Facilities Plan; J-U-B Engineers, Inc.; ZPFI

Total new construction costs required by growth in new development over the next 10 years are projected to reach \$3,725,622.

TABLE 2: NEW CONSTRUCTION PROJECTS

	<u>Source</u>	<u>Storage</u>	<u>Distribution</u>	<u>Total</u>
New Construction Cost 2022	\$164,173	\$2,725,380	\$836,068	\$3,725,622

Source: Nibley City Impact Fee Facilities Plan; J-U-B Engineers, Inc.

Water System Impact Fee Calculation

The gross impact fee, before credits, is \$3,797.41 per ERC.

TABLE 3: GROSS IMPACT FEE PER ERC

SUMMARY OF IMPACT FEE COSTS	
Growth in ERCs, 2022-2032	1,156
Buy-In Costs	\$917.34
New Construction	\$3,222.86
Consultant Costs	\$12.18
Fund Balance	(\$354.97)
GROSS FEE before Credits	\$3,797.41

However, the IFFP identifies that a portion of the new construction projects are needed to cure existing deficiencies in the culinary water system. Therefore, new development cannot be expected to pay the entire impact fee and then also contribute over time, through increased water rates, to curing existing deficiencies in the culinary water system. The IFFP allocates \$1,600,620 of new construction costs as benefits to existing development. Therefore, credits against the gross impact fee have been made as follows:

TABLE 4: CREDIT CALCULATIONS

<u>Year</u>	<u>Payment</u>	<u>ERCs</u>	<u>Pmt per ERC</u>	<u>NPV*</u>	<u>Max Fee per ERC</u>
2022	\$160,062	3,221	\$49.69	\$434.56	\$3,362.86
2023	\$160,062	3,321	\$48.19	\$384.86	\$3,412.55

Year	Payment	ERCs	Pmt per ERC	NPV*	Max Fee per ERC
2024	\$160,062	3,425	\$46.74	\$336.67	\$3,460.74
2025	\$160,062	3,531	\$45.33	\$289.93	\$3,507.48
2026	\$160,062	3,641	\$43.96	\$244.61	\$3,552.81
2027	\$160,062	3,755	\$42.63	\$200.65	\$3,596.76
2028	\$160,062	3,872	\$41.34	\$158.02	\$3,639.39
2029	\$160,062	3,992	\$40.09	\$116.68	\$3,680.73
2030	\$160,062	4,117	\$38.88	\$76.59	\$3,720.83
2031	\$160,062	4,245	\$37.71	\$37.71	\$3,759.71
2032 and after					\$3,797.41

*NPV = net present value discounted at a rate of 4%

Residential fees will be charged on a per door basis, with single-family homes charged the equivalent of a 1" meter size and multi-family units charged 82 percent of a single-family ERC based on reduced number of fixture units generally found in multi-family units as compared to single-family residential. Nonresidential impact fees are calculated by multiplying the 1" meter impact fee by the proportionately-adjusted American Water Works Association (AWWA) ratio as shown in the table below.

TABLE 5: MAXIMUM IMPACT FEE PER ERC OR METER SIZE IN 2022

Meter Size	AWWA Ratios	Proportionately Adjusted AWWA Ratios	Maximum Fee
1" - Single-Family per door	1.67	1.00	\$3,363
1 1/2" water meter	3.33	1.99	\$6,706
2" water meter	5.33	3.19	\$10,733
3" water meter	10.00	5.99	\$20,137
4" water meter	16.67	9.98	\$33,568

Maximum impact fees for following years are shown in the table below:

TABLE 6: MAXIMUM IMPACT FEES BY YEAR

Maximum Impact Fees by Year	2022	2023	2024	2025	2026
<i>Residential</i>					
Multi-Family	\$2,757.54	\$2,798.29	\$2,837.81	\$2,876.13	\$2,913.30
Single-Family	\$3,362.86	\$3,412.55	\$3,460.74	\$3,507.48	\$3,552.81
<i>Non-Residential</i>					
1"	\$3,362.86	\$3,412.55	\$3,460.74	\$3,507.48	\$3,552.81
1.5"	\$5,044.29	\$5,118.83	\$5,191.11	\$5,261.22	\$5,329.21
2"	\$6,725.71	\$6,825.10	\$6,921.49	\$7,014.96	\$7,105.61
3"	\$10,088.57	\$10,237.65	\$10,382.23	\$10,522.44	\$10,658.42
4"	\$13,451.43	\$13,650.20	\$13,842.97	\$14,029.92	\$14,211.22

CHAPTER 1: OVERVIEW OF THE WATER IMPACT FEES

Summary

An impact fee is intended to recover the City's costs of building water system capacity to serve new residential and non-residential development rather than passing these growth-related costs on to existing users through rates. The Utah Impact Fees Act allows only certain costs to be included in an impact fee so that only the fair cost of expansionary projects or existing unused capacity paid for by the City is assessed through an impact fee.

Costs to be Included in the Impact Fee

The impact fees proposed in this analysis are calculated based upon:

- Excess capacity in the City's water system;
- New capital infrastructure that will serve new development; and
- Professional and planning expenses related to the construction of system improvements that will serve new development.

The costs that cannot be included in the impact fee are as follows:

- Costs for projects that cure system deficiencies;
- Costs for projects that increase the LOS above that which is currently provided;
- Operations and maintenance costs;
- Costs of facilities funded by grants or other funds that the City does not have to repay; and
- Costs of reconstruction of facilities that do not have capacity to serve new growth.

Utah Code Legal Requirements

Utah law requires that communities and special districts prepare an Impact Fee Analysis (IFA) before enacting an impact fee. Utah law also requires that communities/districts give notice of their intent to prepare and adopt an IFA. This IFA follows all legal requirements as outlined below. The City has retained Zions Public Finance, Inc. (ZPFI) to prepare this Impact Fee Analysis in accordance with legal requirements.

Notice of Intent to Prepare Impact Fee Analysis

A local political subdivision must provide written notice of its intent to prepare an IFA before preparing the Plan (Utah Code §11-36a-503). This notice must be posted on the Utah Public Notice website. The City has complied with this noticing requirement for the IFA by posting notice.

Preparation of Impact Fee Analysis

Utah Code requires that each local political subdivision, before imposing an impact fee, prepare an impact fee analysis. (Utah Code 11-36a-304).

Section 11-36a-304 of the Utah Code outlines the requirements of an impact fee analysis which is required to:

- (1) An impact fee analysis shall:
 - (a) identify the anticipated impact on or consumption of any existing capacity of a public facility by the anticipated development activity;

- (b) identify the anticipated impact on system improvements required by the anticipated development activity to maintain the established level of service for each public facility;
 - (c) demonstrate how the anticipated impacts described in Subsections (1)(a) and (b) are reasonably related to the anticipated development activity;
 - (d) estimate the proportionate share of:
 - (i) the costs for existing capacity that will be recouped; and
 - (ii) the costs of impacts on system improvements that are reasonably related to the new development activity; and
 - (e) identify how the impact fee was calculated.
- (2) In analyzing whether or not the proportionate share of the costs of public facilities are reasonably related to the new development activity, the local political subdivision or private entity, as the case may be, shall identify, if applicable:
- (a) the cost of each existing public facility that has excess capacity to serve the anticipated development resulting from the new development activity;
 - (b) the cost of system improvements for each public facility;
 - (c) other than impact fees, the manner of financing for each public facility, such as user charges, special assessments, bonded indebtedness, general taxes, or federal grants;
 - (d) the relative extent to which development activity will contribute to financing the excess capacity of and system improvements for each existing public facility, by such means as user charges, special assessments, or payment from the proceeds of general taxes;
 - (e) the relative extent to which development activity will contribute to the cost of existing public facilities and system improvements in the future;
 - (f) the extent to which the development activity is entitled to a credit against impact fees because the development activity will dedicate system improvements or public facilities that will offset the demand for system improvements, inside or outside the proposed development;
 - (g) extraordinary costs, if any, in servicing the newly-developed properties; and
 - (h) the time-price differential inherent in fair comparisons of amounts paid at different times.

Certification of Impact Fee Analysis

Utah Code states that an Impact Fee Analysis shall include a written certification from the person or entity that prepares the Impact Fee Analysis. This certification is included at the conclusion of this analysis.

CHAPTER 2: IMPACT FROM GROWTH UPON THE CITY'S FACILITIES AND LEVEL OF SERVICE

Utah Code 11-36a-304(1)(a)

Projected Water Demands

The table below shows ERC growth projections which will place additional demand on the City's water system. The City's water system currently (year 2022) serves 3,221 equivalent residential connections (ERCs) which will grow to an estimated 4,377 ERCs by 2032. The growth between 2022 and 2032 is expected to be 1,156 ERCs.

Water Service Area

ERCs within Nibley City are projected to grow as follows:

TABLE 7: GROWTH IN DEMAND

Year	ERCs
2022	3,221
2023	3,321
2024	3,425
2025	3,531
2026	3,641
2027	3,755
2028	3,872
2029	3,992
2030	4,117
2031	4,245
2032	4,377
Growth in ERCs, 2022-2032	1,156

Source: Nibley City Impact Fee Facilities Plan; J-U-B Engineers, INC.

Existing and Proposed LOS Analysis

Level of service (LOS) defines the water capital facility demands that a typical Equivalent Residential Connection (ERC) will require and should pay for with impact fees. The IFFP defines existing and proposed service levels as follows per ERC:

- Source component – 1.86 gpm per ERC
- Rights component –
 - Diversion Limit: 0.001667 cfs/ERC (1.86 gpm/ERC)
 - Annual Diversion Volume: 1.21 ac-ft/ERC (0.748/ERC)
- Storage component – 1,076.5 gal per ERC
 - Fire Storage: 3,500 gpm for 3 hours (630,000 gallons)
- Delivery component –
 - Peak Day Demand

- 1.86 gpm/ERC with 40 psi residual system pressure during peak day demand
- Peak Instantaneous Demand
 - 2.72 gpm/ERC with 40 psi residual system pressure during peak instantaneous demand
- Peak Day Demand with Fire Flow Demand
 - 1.86 gpm/ERC with 20 psi during peak day demands with fire
 - 1,500 gpm for residential homes >3,600 square feet
 - 3,500 gpm for Nibley City Elementary

Source: Nibley City Impact Fee Facilities Plan; J-U-B Engineers, INC.

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CHAPTER 3: IMPACT ON CAPACITY FROM DEVELOPMENT ACTIVITY

Utah Code 11-36a-304(1)(b)(c)

Excess Capacity and Deficiency

There is excess capacity in the City's existing water sources. New development can be charged a buy-in fee, as part of the overall impact fee, for the capacity it consumes. Based on information provided in the Impact Fee Facilities Plan, over the next 10 years new development will consume all of the existing, excess capacity of its water sources.

TABLE 8: CONSUMPTION OF EXCESS CAPACITY

	<u>Cost</u>	<u>Percent of Excess Capacity</u>	<u>Cost of excess capacity</u>
Nelson well	\$596,467	33%	\$196,834
Nelson well additions	\$7,969	33%	\$2,630
2016 Well Construction Water Development fund	\$664,984	40%	\$265,994
2016 Well Construction	\$417,032	40%	\$166,813
2017 Well Construction	\$297,933	40%	\$119,173
2017 Well Construction	\$772,510	40%	\$309,004
TOTAL			\$1,060,448

Source: Nibley City Culinary Water IFFP; ZPFI

Source: Nibley City Impact Fee Facilities Plan; J-U-B Engineers, INC.; ZPFI

CHAPTER 4: SYSTEM IMPROVEMENTS REQUIRED FROM DEVELOPMENT ACTIVITY

Utah Code 11-36a-304(1)(b)(c)

The means by which the City will meet growth demands include constructing the following projects as set forth in the Impact Fee Facilities Plan. This will occur through requiring new development to pay for its fair share of existing excess capacity consumed over the next 10 years as well as paying for its fair share of new construction projects.

New capital facility construction projects over the next 10 years include a new storage tank, well, and transmission line and will reach total costs of \$8,582,347 (3% construction cost factor included), with future growth over the next 10 years responsible for \$3,725,622.

TABLE 9: NEW CONSTRUCTION IMPROVEMENTS

Project Name	Est. Construction Yr	2022 Costs	Cost in Construction Year	Cost to Existing	Cost to 10-Yr Future Growth	Cost to Future Growth
2 MG Storage Tank	2023	\$4,200,000	\$4,326,000	\$1,600,620	\$2,725,380	\$0
Develop New Source	2030	\$2,160,000	\$2,736,223	\$0	\$164,173	\$2,572,050
Transmission Line Phase 1	2030	\$1,200,000	\$1,520,124	\$0	\$836,068	\$684,056
TOTAL		\$7,560,000	\$8,582,347	\$1,600,620	\$3,725,622	\$3,256,106

Source: Nibley City Impact Fee Facilities Plan; J-U-B Engineers, INC.

*A 3% construction cost factor is included for future years

The City may choose to upsize some of its existing lines in order to expand capacity and thereby meet the needs of new development. Proposed lines inside new development could be upsized from the minimum standard of 8" to add capacity to the system to serve new development.

A summary of these costs attributable to new development over the period of this impact fee analysis is as follows:

TABLE 10: COST OF NEW CONSTRUCTION IMPROVEMENTS TO NEW DEVELOPMENT, 2022-2032

	Source	Storage	Distribution	Total
New Construction Cost 2022	\$164,173	\$2,725,380	\$836,068	\$3,725,622

Source: Nibley City Impact Fee Facilities Plan; J-U-B Engineers, INC.

CHAPTER 5: PROPORTIONATE SHARE ANALYSIS

Maximum Legal Water Impact Fee per ERC

The Impact Fees Act requires the Impact Fee Analysis to estimate the proportionate share of the future and actual cost of existing system improvements that benefit new growth that can be recouped through impact fees. The impact fee for existing assets must be based on the actual costs while the fees for construction of new facilities must be based on reasonable future costs of the system.

The maximum impact fee is based on the combination of costs for water source, storage and distribution and includes buy-in costs for existing, excess capacity as well as the cost of construction of new facilities.

Buy-In to Existing, Excess Capacity

There is existing, excess capacity in the source system. New development should be required to pay a buy-in fee for its fair share of the excess capacity consumed over the next 10 years. Actual costs have been used in this analysis. Based on the ERCs served over the next 10 years, the buy-in cost for water source is calculated at \$917.34 per ERC. The total buy-in cost per ERC is therefore \$917.34.

TABLE 11: PROPORTIONATE SHARE ANALYSIS, EXISTING EXCESS CAPACITY WATER SOURCE

	Source
Cost Consumed by New Development, 2022-2032	\$1,060,448
Growth in ERCs, 2022-2032	1,156
Cost Per ERC	\$917.34

New Construction

Total new improvement costs attributable to new development over the next 10 years (with inflationary costs added) will reach \$3,725,622.

TABLE 12: PROPORTIONATE SHARE ANALYSIS, NEW IMPROVEMENTS

	Source	Storage	Distribution	Total
New Construction Costs, 2022-2032	\$164,173	\$2,725,380	\$836,068	\$3,725,622
Growth in ERCs, 2022-2032	1,156	1,156	1,156	
Cost per ERC	\$142.02	\$2,357.60	\$723.24	\$3,222.86

Source: Nibley City Impact Fee Facilities Plan; J-U-B Engineers, INC.; ZPFI

Consultant Costs

The Impact Fees Act allows for fees charged to include the reimbursement of consultant costs incurred in the preparation of the IFFP and IFA.

TABLE 13: PROPORTIONATE SHARE ANALYSIS – CONSULTANT COSTS

	Amount
JUB	\$8,284
Zions	\$5,800
Total Consultant Fees	\$14,084
Growth in ERCs, 2022-2032	1,156
Cost per ERC	\$12.18

Impact Fee Fund Balance

Based on information provided by the City, there was an unspent fund balance of \$410,342 as of May 24, 2022. These funds can be used to offset the costs described in this report and a credit must therefore be made.

TABLE 14: PROPORTIONATE SHARE ANALYSIS – FUND BALANCE

Impact Fee Fund Balance Credits	Amount
Fund Balance	\$410,342
Growth in ERCs, 2022-2032	1,156
Credit per ERC	(\$354.97)

Credits Against Impact Fees

Credits must also be calculated for the portion of future improvements that will benefit existing development. This is necessary so that new development does not pay twice – once through an impact fee and once through increased rates to pay for existing deficiencies in the water system.

Based on the IFFP, \$1,600,620 of the total new construction costs will benefit existing development. While impact fees should pay for new development's share of the new projects, rates will need to be raised in order to cover the costs associated with the projects that benefit existing development. Credits must be made so that new development does not pay twice.

The following credits are based on the assumption of increased rates over a 10-year period to pay for the portion of new construction projects that benefit existing development. Impact fees should be sufficient to cover the costs attributable to new development.

TABLE 15: CREDITS ON NEW CONSTRUCTION

Year	Payment	ERCs	Pmt per ERC	NPV*	Max Fee per ERC
2022	\$160,062	3,221	\$49.69	\$434.56	\$3,362.86
2023	\$160,062	3,321	\$48.19	\$384.86	\$3,412.55
2024	\$160,062	3,425	\$46.74	\$336.67	\$3,460.74
2025	\$160,062	3,531	\$45.33	\$289.93	\$3,507.48
2026	\$160,062	3,641	\$43.96	\$244.61	\$3,552.81
2027	\$160,062	3,755	\$42.63	\$200.65	\$3,596.76

Year	Payment	ERCs	Pmt per ERC	NPV*	Max Fee per ERC
2028	\$160,062	3,872	\$41.34	\$158.02	\$3,639.39
2029	\$160,062	3,992	\$40.09	\$116.68	\$3,680.73
2030	\$160,062	4,117	\$38.88	\$76.59	\$3,720.83
2031	\$160,062	4,245	\$37.71	\$37.71	\$3,759.71
2032 and After					\$3,797.41

*NPV = net present value discounted at a rate of 4%

Summary of Maximum Impact Fees

Residential fees will be charged on a per door basis, with single-family homes charged the equivalent of a 1" meter size and multi-family units charged 82 percent of a single-family ERC based on reduced number of fixture units generally found in multi-family units as compared to single-family residential. Nonresidential impact fees are calculated by multiplying the 1" meter impact fee by the proportionately-adjusted AWWA ratio as shown in the table below.

TABLE 16: MAXIMUM IMPACT FEE PER ERC OR METER SIZE IN YEAR 2022

Meter Size	AWWA Ratios	Proportionately Adjusted AWWA Ratios	Maximum Fee
1" - Single-Family per door	1.67	1.00	\$3,363
1 1/2" water meter	3.33	1.99	\$6,706
2" water meter	5.33	3.19	\$10,733
3" water meter	10.00	5.99	\$20,137
4" water meter	16.67	9.98	\$33,568

TABLE 17: MAXIMUM IMPACT FEE BY YEAR

Maximum Impact Fees by Year	2022	2023	2024	2025	2026
<i>Residential</i>					
Multi-Family	\$2,757.54	\$2,798.29	\$2,837.81	\$2,876.13	\$2,913.30
Single-Family	\$3,362.86	\$3,412.55	\$3,460.74	\$3,507.48	\$3,552.81
<i>Non-Residential</i>					
1"	\$3,362.86	\$3,412.55	\$3,460.74	\$3,507.48	\$3,552.81
1.5"	\$5,044.29	\$5,118.83	\$5,191.11	\$5,261.22	\$5,329.21
2"	\$6,725.71	\$6,825.10	\$6,921.49	\$7,014.96	\$7,105.61
3"	\$10,088.57	\$10,237.65	\$10,382.23	\$10,522.44	\$10,658.42
4"	\$13,451.43	\$13,650.20	\$13,842.97	\$14,029.92	\$14,211.22

CERTIFICATION

Zions Public Finance, Inc. certifies that the attached impact fee analysis:

1. includes only the cost of public facilities that are:
 - a. allowed under the Impact Fees Act; and
 - b. actually incurred; or
 - c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;
2. does not include:
 - a. costs of operation and maintenance of public facilities; or
 - b. cost for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents;
3. offset costs with grants or other alternate sources of payment; and
4. complies in each and every relevant respect with the Impact Fees Act.

J-U-B ENGINEERS, INC.

NIBLEY CULINARY WATER

Impact Fee Facility Plan

Marcus Simons, PE

8/23/2022

CULINARY WATER IMPACT FEE FACILITY PLAN

Table of Contents

1	Introduction	2
1.1	PURPOSE	2
1.2	BACKGROUND	2
2	Utah Code Requirements.....	2
2.1	REQUIRED IFFP ELEMENTS	2
2.2	CERTIFICATION OF IMPACT FEE FACILITIES PLAN	3
3	Existing LOS	3
4	Proposed LOS	4
5	Excess Capacity to Accommodate Future Growth	5
5.1	STORAGE	5
5.2	WATER RIGHTS.....	6
5.3	SOURCES FOR PEAK DAY FLOWS	6
5.4	TRANSMISSION LINES	7
6	Demands Placed on Existing Facilities by New Development	8
7	Required Infrastructure to meet Demands of New Growth	8
7.1	WATER RIGHTS.....	8
7.2	EXISTING AVAILABLE PEAK DEMAND FLOWS.....	8
7.3	TRANSMISSION LINES.....	8
7.4	STORAGE	8
7.5	10 YEAR IMPROVEMENT PLAN.....	9
8	Consideration of Revenue Sources to Finance Impacts on Improvements	9
8.1.1	<i>Grants</i>	<i>10</i>
8.1.2	<i>Bonds</i>	<i>10</i>
8.1.3	<i>Impact Fees.....</i>	<i>10</i>
8.1.4	<i>Anticipated or Accepted Dedications of System Improvements</i>	<i>10</i>
9	Certifications	11

1 Introduction

1.1 Purpose

The purpose of the Water Impact Fee Facilities Plan (IFFP) is to determine the impacts placed on the water system from future development as outlined in Utah Administrative Code (UAC) Title 11 Chapter 36a-301 and 36a-302. The IFFP outlines which improvements in the Capital Facilities Plan (CFP) can be funded through impact fees. This IFFP utilizes information from the collection system model and CFP to provide the information that becomes the foundation for the Impact Fee Analysis (IFA). The IFA will be prepared by a financial consultant.

1.2 Background

Nibley City has prepared a Culinary Water Master Plan (CWMP) in 2020 for their culinary water system including water storage, source, distribution system and water rights. The water system modeling and analysis used as the basis of this IFFP was completed as part of the CWMP. Refer to the CWMP for additional information on the planning and evaluation of the City's water system.

2 Utah Code Requirements

2.1 Required IFFP Elements

Utah Code requires that each local political subdivision, before imposing an impact fee, prepare an impact fee facilities plan. (Utah Code 11-36a-301).

Section 11-36a-302(a) of the Utah Code outlines the requirements of an impact fee facilities plan which is required to identify the following:

- (i) identify the existing level of service
- (ii) establish a proposed level of service
- (iii) identify any excess capacity to accommodate future growth at the proposed level of service
- (iv) identify demands placed upon existing facilities by new development activity at the proposed level of service; and
- (v) identify the means by which the political subdivision or private entity will meet those growth demands.

Further, the proposed level of service may:

- (i) exceed the existing level of service if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service; or
- (ii) establish a new public facility if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase

CULINARY WATER IMPACT FEE FACILITY PLAN

the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service.

In preparing an impact fee facilities plan, each local political subdivision shall generally consider all revenue sources to finance the impacts on system improvements, including:

- (a) grants
- (b) bonds
- (c) interfund loans
- (d) transfers from the General Fund
- (e) impact fees; and
- (f) anticipated or accepted dedications of system improvements.

2.2 Certification of Impact Fee Facilities Plan

Utah Code states that an impact fee facilities plan shall include a written certification from the person or entity that prepares the impact fee facilities plan. This certification is included at the conclusion of this analysis.

3 Existing LOS

Utah Code 11-36a-302(1)(a)(i)

Level of service is defined in the Utah code as the “performance standard or unit of demand for each capital component of a public facility within a service area” as defined by the Impact Fees Act. This section discusses the level of service being currently provided to existing users.

The following information is compiled from the April 2020 Culinary Water Master Plan and shows the existing LOS of the water system.

CULINARY WATER IMPACT FEE FACILITY PLAN

Table 3-1: Existing LOS Summary

Existing LOS Summary		
Storage	Equalization (indoor and outdoor use)	1,076.5 gallons per ERC
	Fire Storage	3,500 gpm for 3 hours (630,000 gallons)
	Emergency	0%
Source	Peak Day Demand (indoor and outdoor use)	1.86 gpm per ERC
Distribution	Peak Day Demand	1.86 gpm/ERC with 40 psi residual system pressure during peak day demand
	Peak Instantaneous Demand	2.72 gpm/ERC with 40 psi residual system pressure during peak instantaneous demand
	Peak Day Demand with Fire Flow Demand	1.86 gpm/ERC with 20 psi during peak day demands with fire. o 1,500 gpm for residential homes >3,600 square feet o 3,500 gpm for Nibley City Elementary
Water Rights	Diversion Limit (peak flow or PDD) = 0.001667 cfs/ERC (1.86 gpm/ERC)	
	Annual Diversion Volume (ADD projected for one year) = 1.21 ac-ft/ERC (0.748 gpm/ERC)	

4 Proposed LOS

Utah Code 11-36a-302(1)(a)(ii)

The proposed level of service is used to evaluate future needs of the system. Per the Impact Fee Act the “proposed level of service may diminish or equal the existing level of service” (Utah Code 11-36a-302(1)(b)). A proposed level of service may “exceed the existing level of service if, independent of the use of impact fees, the political subdivision or private entity provides, implements, and maintains the means to increase the existing level of service for existing demand within six years of the date on which new growth is charged for the proposed level of service” (Utah Code 11-36a-302(1)(c)(i)).

The proposed level of service is based on the available water supply, peak demand flows, transmission lines, and storage requirements to meet future needs. There are currently no deficiencies in the system that prevent the City from meeting these levels of service. The proposed LOS is the same as the existing LOS with exception of the emergency storage volume. According to the master plan this should be increased to 10 percent of newly constructed storage volume. The following table shows the proposed LOS.

CULINARY WATER IMPACT FEE FACILITY PLAN

Table 4-1: Proposed LOS Summary

Proposed LOS Summary		
Storage	Equalization (indoor and outdoor use)	1,076.5 gallons per ERC
	Fire Storage	3,500 gpm for 3 hours (630,000 gallons)
	Emergency	10% of New Storage Volume
Source	Peak Day Demand (indoor and outdoor use)	1.86 gpm per ERC
Distribution	Peak Day Demand	1.86 gpm/ERC with 40 psi residual system pressure during peak day demand
	Peak Instantaneous Demand	2.72 gpm/ERC with 40 psi residual system pressure during peak instantaneous demand
	Peak Day Demand with Fire Flow Demand	1.86 gpm/ERC with 20 psi during peak day demands with fire. o 1,500 gpm for residential homes >3,600 square feet o 3,500 gpm for Nibley City Elementary
Water Rights	Diversion Limit (peak flow or PDD) = 0.001667 cfs/ERC (1.86 gpm/ERC)	
	Annual Diversion Volume (ADD projected for one year) = 1.21 ac-ft/ERC (0.748 gpm/ERC)	

5 Excess Capacity to Accommodate Future Growth

Utah Code 11-36a-302(1)(a)(iii)

This section identifies excess capacity in the storage, source, distribution, and water rights. The projected number of ERCs in 2032 is 3,624. The proposed level of service must be maintained when identifying excess capacity.

5.1 Storage

The existing city storage capacity is 3,350,000 gallons. The excess capacity in the storage tanks is as follows:

2022 Excess Capacity

The ERC value used in this section is different than the Water Master Plan projected value and is based on water use data from 2021.

3,221 ERCs * 1076.5 gallons per ERC = 3,467,406 gallons

Fire Suppression Storage = 630,000 gallons

CULINARY WATER IMPACT FEE FACILITY PLAN

2022 Current Water Storage = 3,350,000 gallons

2022 excess capacity = -747,406 gallons

2032 Excess Capacity

3,624 ERCs * 1076.5 gallons per ERC = 3,901,236 gallons

Fire Suppression Storage = 630,000 gallons

2032 excess capacity = 3,350,000 + 747,406 – (3,901,236 + 630,000) = -433,830 gallons +10% = -477,213 gallons

5.2 Water Rights

The current excess capacity for the water rights is the difference between the current water rights and the current need. The future excess capacity for the water rights is the difference between the current water rights and the future need.

2022 Excess Capacity

The ERC value used in this section is different than the Water Master Plan projected value and is based on water use data from 2021

3,221 ERCs * 1.21 acre-feet/year = 3,897.41 acre-feet

2020 Current Water Rights = 3,986.14 acre-feet

2022 excess capacity = 88.73 acre-feet

2032 Excess Capacity

3,624 ERCs * 1.21 acre-feet = 4,385.04 acre-feet

2020 Current Water Rights = 3,986.14 acre-feet

2032 excess capacity= - 398.90 acre-feet

5.3 Sources for Peak Day Flows

The excess capacity will be the difference between the water available for the peak demand flows that the city currently has the ability to put into their system and the current and future demands.

2022 Excess Capacity

The ERC value used in this section is different than the Water Master Plan projected value and is based on water use data from 2021

CULINARY WATER IMPACT FEE FACILITY PLAN

3,221 ERCs $\text{ERCs} \times 1.86 \text{ gpm per ERC} = 5,991 \text{ gpm}$

2022 Current Water Supply = 5,991 gpm (set to match demand)

2022 Current Safe Yield = 6,653 gpm

2022 excess capacity = 662 gpm

The excess capacity is divided out between the 3 wells in the system as follows:

This is based on the master plan current pumping rate vs safe yield capacity.

Nelson Well – 33%

640 West – 40%

4000 S Well – 27%

Current excess capacity is 662 gpm which equates to 356 ERC ($662 \text{ gpm} / 1.86 \text{ gpm per ERC}$).

Using the percentages from above the breakdown of excess capacity in terms of gpm and ERC for each well are:

Nelson Well – ($662 \times 33\%$) 218 gpm or 117 ERC's

640 West – ($662 \times 40\%$) 265 gpm or 142 ERC's

4000 S Well – ($662 \times 27\%$) 179 gpm or 96 ERC's

2032 Excess Capacity

3,624 ERCs $\text{ERCs} \times 1.86 \text{ gpm per ERC} = 6,740 \text{ gpm}$

2023 Water Supply = 6,653 gpm

2023 Safe Yield = 6,653 gpm

2032 excess capacity = -87 gpm.

5.4 Transmission Lines

According to the water master plan, most of the existing transmission lines are sized to accommodate current demand. However, as development occurs there will be a need for an additional transmission line which is planned for a 2030 construction year. This project is shown as the Transmission Line Phase 1 (Map ID C-3) and is impact fee eligible.

6 Demands Placed on Existing Facilities by New Development

Utah Code 11-36a-302(1)(a)(iv)

This section identifies demands placed upon the existing public facilities by new developments at the proposed level of service. Nibley City is currently seeing many new developments that were shown in the growth areas of the water master plan. As shown above, the new developments place demand on the existing system by addition of ERCs.

7 Required Infrastructure to meet Demands of New Growth

Utah Code 11-36a-302(1)(a)(v)

To meet the requirements of the Impact Fee Act, the existing city water model was used to simulate the projected growth in the city. A future scenario was created with additional demands added at each projected development location. The impact of each development on the system is used to assign a percentage of each project that can be attributed to future growth. The resulting improvements are necessary because of the continued growth of the city. These demands are shown in more detail in the water master plan. As summary of the required infrastructure are as follows.

7.1 Water Rights

As long as the City maintains the existing water rights and collects water from new development consistent with the developments water demand then no additional projects are necessary to meet demands of new growth in the next ten years.

7.2 Existing Available Peak Demand Flows

It is estimated that Nibley City will have a deficiency of capacity for their water supply in 2032. Increasing pumping capacity at the current well sites and providing for additional source is required in the next 10 years to meet the demands of new growth.

7.3 Transmission Lines

The City's existing water model was used to evaluate the growth demands in 2032. Several existing lines are projected to be under capacity by the year 2032. The water model was used to evaluate the proportion of each required project to existing and future demand. Pipes that need to be replaced or installed to meet the future demands are shown in the improvement project list and improvement project map (Appendix B).

7.4 Storage

It is estimated that Nibley City will have a deficiency in capacity for water storage in 2032. Additional storage will be required in the next 10 years to meet the demand of new growth.

7.5 10 Year Improvement Plan

The capital facility projects needed to provide service to Nibley City over the next ten years are identified in the Water Master Plan, updated in 2020 by Jones and DeMille Engineering. Only infrastructure to be constructed within the next 10 years are considered in the calculation of the impact fees. Table 7-1 shows the projects to be constructed in the next 10 years and their percentages attributed to growth. Detailed cost estimates for the projects can be found in the Water Master Plan. The construction costs for each project were increased from the water master plan and updated based on recent bids and the City's experience with similar projects.

The percentages used in Table 7-1, are derived from evaluation of the excess capacity numbers and the ERC's currently served, the 10 year growth, and future growth beyond 10 years. For example: The current excess capacity for storage is negative, so a portion of a new tank would go towards the existing system to make up the negative capacity. In this case 37% of the 2 MG tank would cover the current negative capacity. Next, the ERC's are projected to the 10 year growth date and the volume required and the percentage of the new tank calculated. If there is a percent volume remaining after this, then it is put towards future growth. In this case there is no volume remaining after the 10 year growth period so the percent to future growth is zero.

Table 7-1: Capital Improvement Projects

Capital Improvement Projects								
Project Name	Estimated Construction Year	2022 Costs	Percent to Existing	Percent to 10-Year Growth	Percent to Future Growth	Cost to Existing	Cost to 10-Year Growth	Cost to Future Growth
2 MG Storage Tank	2023	\$4,200,000	37%	63%	0%	\$1,554,000	\$2,646,000	\$0
Develop New Source	2030	\$2,160,000	0%	6%	94%	\$0	\$129,600	\$2,030,400
Transmission Line Phase 1	2030	\$1,200,000	0%	55%	45%	\$0	\$660,000	\$540,000
TOTALS		\$7,560,000				\$1,554,000	\$3,435,600	\$2,570,400

8 Consideration of Revenue Sources to Finance Impacts on Improvements

Section 302 (2) of the Impact Fee Act requires the City to “generally consider all revenue sources, including impact fees and anticipated dedication of system improvements, to finance the impacts on system improvements.” By doing so, the City ensures fair and equitable treatment among users and concludes whether impact fees are the most appropriate method to fund the growth.

There are a number of potential revenue sources to consider including:

- Grants
- Bonds
- Impact Fees

- Anticipated or Accepted Dedications of System Improvements

8.1.1 Grants

Impact fees may not reimburse projects funded through grants. No grants have been included in the project costs. If grants are received, costs will be adjusted accordingly.

8.1.2 Bonds

The City could issue bonds in the future in order to fund their sewer system. No bonds are planned and therefore no costs associated with bond issuance have been included in the calculation of impact fees.

8.1.3 Impact Fees

Because of the growth anticipated to occur in the City, impact fees are a viable means of allowing new development to pay for the impacts that it places on the existing system. This IFFP is developed in accordance with legal guidelines so that an Impact Fee Analysis for the sewer system may be prepared and the City may charge impact fees. This will prevent existing users from subsidizing new growth.

8.1.4 Anticipated or Accepted Dedications of System Improvements

Developers in Nibley have not historically dedicated system improvements without requesting a credit for the work. Any item that a developer funds, must be included in the IFFP if a credit against impact fees is to be issued, and must be agreed upon with the City before construction of the improvements.

9 Certifications

This IFFP has been prepared in accordance with Utah Code Title 11 Chapter 36a, Impact Fee Act. In accordance with Utah Code Title 11-36a-306(1), J-U-B Engineers, Inc. makes the following certification.

"I certify that the attached impact fee facilities plan:

1. includes only the costs of public facilities that are:

a. allowed under the Impact Fees Act; and

b. actually incurred; or

c. projected to be incurred or encumbered within six years after the day on which each impact fee is paid;

2. does not include:

a. costs of operation and maintenance of public facilities;

b. costs for qualifying public facilities that will raise the level of service for the facilities, through impact fees, above the level of service that is supported by existing residents; or

c. an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with generally accepted cost accounting practices and the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement; and

3. complies in each and every relevant respect with the Impact Fees Act."

Dated:

J-U-B ENGINEERS, INC.



NIBLEY IMPACT FEES

February 23, 2022

- One-time fee charged to new development to offset the capital costs associated with new development
- Can only cover the costs of *system* improvements
- Must have an Impact Fee Facilities Plan (IFFP) and an Impact Fee Analysis (IFA) – Utah Code 11-36a

Impact Fee Facilities Plan (IFFP)

- Existing service levels
- Proposed service levels
- Excess capacity

- Demand created by new development
- Consumption of excess capacity
- New facilities needed and cost

Impact Fee Analysis (IFA)

- Proportionate share analysis
- “Buy-In” excess capacity component
- Construction cost of new facilities
- Other costs – engineering, financial, fund balances
- Financing and credits

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Water Impact Fees

Year	ERCs
2022	3,221
2023	3,321
2024	3,425
2025	3,531
2026	3,641
2027	3,755
2028	3,872
2029	3,992
2030	4,117
2031	4,245
2032	4,377
Growth in ERCs, 2022-2032	1,156

- Source component – 1.86 gpm per ERC
- Rights component –
 - Diversion Limit: 0.001667 cfs/ERC (1.86 gpm/ERC)
 - Annual Diversion Volume: 1.21 ac-ft/ERC (0.748/ERC)
- Storage component – 1,076.5 gal per ERC
 - Fire Storage: 3,500 gpm for 3 hours (630,000 gallons)
- Delivery component –
 - Peak Day Demand
 - 1.86 gpm/ERC with 40 psi residual system pressure during peak day demand
 - Peak Instantaneous Demand
 - 2.72 gpm/ERC with 40 psi residual system pressure during peak instantaneous demand
 - Peak Day Demand with Fire Flow Demand
 - 1.86 gpm/ERC with 20 psi during peak day demands with fire
 - 1,500 gpm for residential homes >3,600 square feet
 - 3,500 gpm for Nibley City Elementary

Project Name	Cost in Construction Year	Cost to Existing	Cost to 10-Yr Future Growth	Cost to Future Growth
2 MG Storage Tank	\$4,326,000	\$1,600,620	\$2,725,380	\$0
4000 W New Well	\$2,736,223	\$0	\$164,173	\$2,572,050
Transmission Line Phase 1	\$1,520,124	\$0	\$836,068	\$684,056
TOTAL	\$8,582,347	\$1,600,620	\$3,725,622	\$3,256,106

SUMMARY OF IMPACT FEE COSTS	
Growth in ERCs, 2022-2032	1,156
Buy-In Costs	\$917.34
New Construction	\$3,222.86
Consultant Costs	\$12.18
Fund Balance	(\$354.97)
GROSS FEE before Credits	\$3,797.41

**Credit is made for the cost to existing development, which is \$1,600,620

Maximum Fee by Meter Size

Maximum Impact Fees by Year	2022	2023	2024	2025	2026
<i>Residential</i>					
Multi-Family	\$2,757.54	\$2,798.29	\$2,837.81	\$2,876.13	\$2,913.30
Single-Family	\$3,362.86	\$3,412.55	\$3,460.74	\$3,507.48	\$3,552.81
<i>Non-Residential</i>					
1"	\$3,362.86	\$3,412.55	\$3,460.74	\$3,507.48	\$3,552.81
1.5"	\$5,044.29	\$5,118.83	\$5,191.11	\$5,261.22	\$5,329.21
2"	\$6,725.71	\$6,825.10	\$6,921.49	\$7,014.96	\$7,105.61
3"	\$10,088.57	\$10,237.65	\$10,382.23	\$10,522.44	\$10,658.42
4"	\$13,451.43	\$13,650.20	\$13,842.97	\$14,029.92	\$14,211.22

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Sewer Impact Fees

Growth - ERCs	ERCs
2021	2,129
2022	2,226
2023	2,328
2024	2,434
2025	2,546
2026	2,662
2027	2,783
2028	2,911
2029	3,044
2030	3,328
2031	3,328
Growth in ERCs, 2021-2031	1,199

Criteria	Existing LOS	Proposed LOS
Pipeline Capacity		
Percent of full capacity for 8-in to 15-in pipes	< 75%	< 75%
Percent of full capacity for pipes larger than 18-in	< 85%	< 85%
Collection Capacity (Lift Stations)		
Peak flow entering a lift station	<85%Pumping Capacity	<85%Pumping Capacity
General Assets		
Adequacy of Existing Facilities to Serve Costumers	An additional pump will be needed prior to 2031	

Capital Facilities Plan

ID	Project Description	Total Project Cost	Cost to Existing	Cost to 10-Yr Growth	Cost to Future Growth
A	24" trunkline from 2600 S upstream to 2960 S	\$961,000	N/A	\$73,104	\$887,896
B	Southwest regional LS and force main along with a 10" gravity sewer line from the new LS to 3400 S	\$1,941,000	N/A	\$147,654	\$1,793,346
C	Add a third pump to Hansen lift station	\$151,000	N/A	\$1,510	\$149,490
D	Upsize the existing 12" trunk line to 24" from 2600 S upstream to 2960 S	\$1,138,000	N/A	N/A	\$1,138,000
E	Upgrade the pumps and force main at the Hansen LS	\$3,983,000	N/A	N/A	\$3,983,000
F	Install a diversion and 8" pipe to send peak flows across HWY 165	\$755,000	N/A	N/A	\$755,000
G	Northeast regional LS and force main with a railroad crossing on 2200 S with a 8" gravity sewer line from the new LS to 800 W	\$977,000	N/A	N/A	\$977,000
TOTAL		\$9,906,000		\$222,268	\$9,683,732

SUMMARY OF IMPACT FEE CALCULATION	
Buy-In Costs	\$1,572.08
New Construction	\$185.38
Consultants	\$6.97
Impact Fee Fund Balance Credit	\$0.00
Credits for Outstanding Bond	(\$314.06)
Total Max Impact Fee	\$1,450.37

Maximum Fee by Meter Size

Sewer Meter Size	2023	2024	2025	2026	2027	2028
Multi-Family	\$1,189	\$1,214	\$1,240	\$1,265	\$1,290	\$1,315
1" Single-Family Per Door	\$1,450	\$1,481	\$1,512	\$1,543	\$1,574	\$1,603
1.5" Sewer Meter	\$2,892	\$2,953	\$3,016	\$3,077	\$3,138	\$3,197
2" Sewer Meter	\$4,629	\$4,727	\$4,827	\$4,925	\$5,022	\$5,117
3" Sewer Meter	\$8,685	\$8,868	\$9,056	\$9,241	\$9,423	\$9,601
4" Sewer Meter	\$14,478	\$14,783	\$15,097	\$15,405	\$15,707	\$16,005

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Parks Impact Fees

Year	Population
2022	7,740
2023	7,957
2024	8,180
2025	8,409
2026	8,644
2027	8,886
2028	9,135
2029	9,391
2030	9,654
2031	9,924
2032	10,202
Growth in Population: 2022-2032	2,462

**Park Impact Fees only include residential growth

Service Levels	Existing	Proposed (Impact Fee Eligible)	Existing	Proposed
Land Acres per Capita/ Amount per Capita	0.015	0.015	\$1,518.86	\$1,518.86
Park Amenities Acres per Capita/ Amount per Capita	0.021	0.021	\$1,209.21	\$1,209.21
Trail Linear Feet per Capita/ Amount per Capita	2.42	2.42	\$144.96	\$144.96

**Proposed level of service must at least maintain the existing level of service

	Cost
Parks Land	\$3,739,441
Park Amenities	\$2,977,083
Trail Feet	\$356,895
TOTAL	\$7,073,418

Summary per capita	
Parks/Amenities	\$2,728.08
Trails	\$144.96
Consultant Cost	\$3.08
Fund Balance	(\$555.59)
Cost per Capita	\$2,320.53

	Average Unit Size	Max Fee
Single-Family	3.88	\$9,003.64
Multi-Family	2.85	\$6,613.50
Source: U.S. Census Bureau: 2020 ACS 5-Year Estimates		

City	Impact Fee
Logan	
Water	\$2,293.00
Sewer	\$2,433.00
Parks (SF)	\$1,292.00
Parks (MF)	\$965.00
North Logan	
Water	\$7,085.00
Sewer	\$5,576.00
Parks (SF)	\$3,594.00
Parks (MF)	\$3,594.00
Hyrum	
Water	\$2,498.00
Sewer	\$2,206.42
Parks (SF)	\$2,217.00
Parks (MF)	\$2,217.00
Millville	
Water	\$3,050.00
Sewer	-
Parks (SF)	\$5,330.00
Parks (MF)	\$1,630.00
Nibley (Proposed)	
Water	\$3,363.00
Sewer	\$1,450.00
Parks (SF)	\$9,003.00
Parks (MF)	\$6,613.00

Agenda Item #7

Description	Discussion and Consideration – Resolution 23-03: Annual Amendments to Nibley City's Consolidated Fee Schedule (First Reading)
Presenter	Justin Maughan, City Manager
Recommendation	Move to approve Resolution 23-03: Annual Amendments to Nibley City's Consolidated Fee Schedule for first reading.
Reviewed By	City Manager, City Treasurer

Background

Staff has made it a practice to annually bring back the Consolidated Fee Schedule for Council review. Staff has put a lot of work into the fee schedule to make sure we are charging an appropriate amount, for the appropriate reasons. There have been many changes this year to the fee schedule. Any change has been highlighted yellow in the attached 2023 Consolidated Fee Schedule located in Teams. In order to be as transparent as possible, and ensure that all the approved fees are charged, staff has added columns to the schedule that include who is responsible to make sure each fee is charged, as well as a detailed description of the charge.

Other notable adjustments include:

Increase of Sewer Rate from \$54 to \$55. This is the last scheduled increase.

Development Fees to cover expenses of engineering, inspection, and modeling.

Animal Land Use Violation added \$750.00

RESOLUTION 23-03

A RESOLUTION ADOPTING ANNUAL AMENDMENTS TO THE NIBLEY CITY CONSOLIDATED FEE SCHEDULE

WHEREAS, State Law and Nibley City Code empower the Nibley City Council to set rates and charge fees for services provided by Nibley City;

WHEREAS, the City has historically set rates and fees for services through various resolutions from time to time as needed;

WHEREAS, the City Council finds that it is in the best interest of the City and its residents to annually review and update the existing Consolidated Fee Schedule as needed;

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE NIBLEY CITY COUNCIL THAT:

1. The Consolidated Fee Schedule attached hereto as Exhibit A and the rates, fees, and charges set forth therein are hereby enacted and adopted.
2. This Resolution does not repeal, abrogate, annul, or impair in any way the existing resolutions or ordinances of the City except to modify the rates, fees, and charges reflected in the Consolidated Fee Schedule. All rates, fees, or charges not listed in the Consolidated Fee Schedule which are contained in or promulgated pursuant to any current resolution or ordinance shall remain in full force and effect, unless and until duly modified. All resolutions or ordinances which set forth rates, fees, or charges which are contained in the Consolidated Fee Schedule are hereby superseded by the Consolidated Fee Schedule.
3. This Resolution shall take effect immediately upon adoption of this Resolution by the Nibley City Council.

Resolution 23-03 supersedes Resolutions 22-26

Adopted by the Nibley City Council this _____ Day of _____, 2023.

Larry Jacobsen, Mayor

ATTEST:

Cheryl Bodily, City Recorder

Utility Service Fees				
Item	Rate	Proposed Rate	Definition	Overseer
Water				
Base Rate				
1" Water Service	\$ 15.50		Procurement, treatment, and distribution of water by the City to user	Wendy
2" Water Service	\$ 35.00		Procurement, treatment, and distribution of water by the City to user	Wendy
3" Water Service	\$ 65.00		Procurement, treatment, and distribution of water by the City to user	Wendy
4" Water Service	\$ 90.00		Procurement, treatment, and distribution of water by the City to user	Wendy
5" Water Service	\$ 95.00		Procurement, treatment, and distribution of water by the City to user	Wendy
6" Water Service	\$ 105.00		Procurement, treatment, and distribution of water by the City to user	Wendy
Rate per 1,000 gallons				
0-5,000 Gallons	Included in base rate		0 to 5,000 gallons of water is provided for base rate payment	Wendy
5,001 - 40,000	\$ 1.05		Between 5001 and 40000 gallons the water cost is \$1.05 per thousand gallons	Wendy
40,001 - 65,000	\$ 1.10		Between 40001 and 65000 gallons the water cost is \$1.10 per thousand gallons	Wendy
65,001 - 100,000	\$ 1.15		Between 65001 and 100000 gallons the water cost is \$1.15 per thousand gallons	Wendy
100,001 +	\$ 1.35		Beyond 100001 gallons the water cost is \$1.35 per thousand gallons	Wendy
Multifamily Base Rate				
Multifamily Base Rate per Unit billed to owner	\$ 15.50		The minimum water amount charged per townhome unit that each owner is billed for each month	Wendy
Townhouse Usage Rate per 1000 gallons billed to HOA			Each Water Meter receives 5000 gallons of water per townhome unit served by the meter	Wendy
0-5000 Gallons	Included in base rate		0 to 5,000 gallons of water is provided for base rate payment for each townhome	Wendy
5001-40000 Gallons	\$ 1.05		Between 5001 and 40000 gallons the water cost is \$1.05 per thousand gallons usage for a HOA	Wendy
40,001-65,000 Gallons	\$ 1.10		Between 40001 and 65000 gallons the water cost is \$1.10 per thousand gallons for a HOA	Wendy
65,001-100,000 Gallons	\$ 1.15		Between 65001 and 100000 gallons the water cost is \$1.15 per thousand gallons for a HOA	Wendy
100,001+	\$ 1.35		Beyond 100001 gallons the water cost is \$1.35 per thousand gallons for a HOA	Wendy
Miscellaneous Water				
Water Reconnect/Disconnect Fee	\$ 50.00		This fee is paid to the City to cover the cost of disconnecting and reconnecting the water, whether for non-payment or requested service, one-time fee paid at time of disconnect	Wendy
Extra Territorial Rate	2 x base & usage		Water use arrangement for an area outside of city boundary. The cost is 2 times the normal base rate plus the same rate charged to the citizens	Tom
Backflow Test Submission	\$ 15.00	\$ 16.00	Fee charged to residents required to have their backflow assembly tested per Utah State Law, \$15.00 of fee is passed onto third party tracking software company	Jamie
Water Stock/Right-Contribution-Waiver	\$2500.00 Per Acre-Foot Required	(Location-change)	Location-changed to other worksheet	Tom
Sewer				
Residential Rate	\$ 54.00	\$ 55.00	Residential services provided by City for collection, treatment, and disposal of wastewater	Wendy
Commercial #1 (0 - 7,000 Gal)	\$ 54.00	\$ 55.00	Commercial services provided by City for collection, treatment, and disposal of wastewater for 0 to 7000 gallons wintertime monthly average	Wendy
Commercial #2 (7,001 - 15,000 Gal)	\$ 108.00	\$ 110.00	Commercial services provided by City for collection, treatment, and disposal of wastewater for 7001 to 15000 gallons wintertime monthly average	Wendy
Commercial #3 (15,001 - 25,000 Gal)	\$ 162.00	\$ 165.00	Commercial services provided by City for collection, treatment, and disposal of wastewater for 15001 to 25000 gallons wintertime monthly average	Wendy
Commercial #4 (25,001 - 50,000 Gal)	\$ 216.00	\$ 220.00	Commercial services provided by City for collection, treatment, and disposal of wastewater for 25001 to 50000 gallons wintertime monthly average	Wendy
Commercial #5 (50,000 Gal & Up)	Manual Calculation		Commercial services provided by City for collection, treatment, and disposal of wastewater for 50001 gallons or greater wintertime monthly average	Wendy
Pretreatment	Pass through from Logan City		Pretreatment treats wastewater at a commercial facility to remove harmful pollutants before the wastewater enters the collection system.	Wendy
Stormwater				
Residential	\$ 8.00		Fee charged to cover the cost of complying with State MS4 regulations	Wendy
Commercial	(Sq. ft. of impervious surface/3,000) x Residential Rate		Fee charged to cover the cost of complying with State MS4 regulations	Wendy
Utility Billing Penalties				
Late Fee	\$ 5.00		Late fee charged per month for utility payments received later than the 20th of each month	Wendy
Late Fee Penalty (Calculated from past due balance)	0.0175		Interest charged on the past due balance for utility payments received later than the 20th of each month (balance x .0175= penalty)	Wendy
Nonsufficient Funds Fee	\$ 30.00		Fee charged by City when an account lacks the funds needed to cover a payment made through an agency	Arny
Non-Payment Disconnect/Reconnect Fee	\$ 50.00	(Listed Twice)	Fee listed twice	Wendy
Door Hanger Fee	\$ 25.00		Fee charged by City when a Door Hanger is hung.	Wendy

Do we want to add anything about the Commercial Stormwater expense at 50% cost if providing own stormwater services?

Business Licenses & Fees				
Item	Rate	Proposed Rate	Definition	Overseer
Business License Application Fee	\$ 30.00		Fee charged to review a new application of a Business License for Home Occupation, Temporary Vendor/Solicitors, or Commercial Businesses	Amy
Home Occupation Business License Annual Fee (Jan-Dec)	\$ 30.00		Licensing fee charged for renewal of a Home Occupation Business License for one calendar year	Amy
Home Business License 1/2 Year (July - Dec)	\$ 15.00		Licensing fee charged for a new Home Occupation Business License for 1/2 year between July and December	Amy
Commercial & Industrial Business License Initial Fee (Jan-Dec)	\$ 250.00		Fee charged to review and license a new application received January through June of a Commercial or Industrial Business License	Amy
Commercial & Industrial Business License Initial Fee (July-Dec)	\$ 125.00		Fee charged to review and license a new application received July through December of a Commercial or Industrial Business License	Amy
Commercial & Industrial Business License Renewal Fee (Jan-Dec)	\$ 150.00		Fee charged for license renewal of a Commercial or Industrial Business License per calendar year	Amy
Temporary Vendor/Solicitors Business License (6 Months)	\$ 30.00		Fee charged for a Temporary Vendor/Solicitors Business License, for a term of 6 months	Amy
Class B Retail License (Jan-Dec)	\$ 250.00		Fee charged for a Beer License which allows for sale of beer in original containers in accordance with ordinances of the City	Amy
Late Fee after February 1	10%	10% or \$10.00, whichever is greater	Late fee charged for Home Occupation and Commercial/Industrial Business License renewals unpaid prior to February 1st.	Amy
Fire Marshall Inspection Fee	As charged by Cache County	\$ 45.00	Inspection fee charged by Cache County to ensure that Commercial/Industrial Businesses within the City are operating in accordance with fire and safety standards	Amy
Sexually-Oriented Business License	-Determined by City Council-		Fee will be charged the same as other licensing fees-	
Business License Appeal Request Application		\$ 750.00	Fee charged to initiate appeal process for denied/revoked Business/Temporary Business License Application or denied/revoked Alcoholic Beverage License	Amy
Temporary Alcohol License		\$ 150.00	Fee charged to review and temporarily license a vendor to sell alcohol.	Amy
Deposit for Temporary Alcohol License		\$ 500.00	Refundable deposit held until after event during which alcohol was dispensed according to a temporary alcohol license.	Levi/Amy

Dog Licenses & Permits				
Item	Rate	Proposed Rate	Definition	Overseer
Dog Registration Annually - Spayed/Neutered	\$ 25.00		Annual cost to renew registration for a spayed/neutered dog	Jamie
Dog Registration Annually - Unaltered	\$ 35.00		Annual cost to renew registration for an unaltered dog	Jamie
New Dog Registration Sept-Feb - Spayed/Neutered	\$ 12.50		Cost for a new registration of a spayed/neutered dog Sept-Feb	Jamie
New Dog Registration Sept-Feb - Unaltered	\$ 17.50		Cost for a new registration of an unaltered dog Sept-Feb	Jamie
Dog Registration Early Bird Discount	-\$10.00 if paid before March 1st		Discount applied to payments received prior to March 1st for renewal registrations for the current or future year.	Jamie
Kennel License - Yearly Renewal	\$ 30.00		Licensing fee for a Kennel License, which allows an owner 3 dogs if Animal Land Use Regulations NCC 19.34 are met	Jamie
Kennel License Application Fee	\$ 30.00		Application fee for consideration of a Kennel License	Jamie
Lost Tag	\$ 5.00		Fee to replace a lost tag for a registered dog	Jamie
Impound 1st Offense	\$30 first day +\$18 per day thereafter		Fee for a first time dog impound plus daily expense, payable to impound facility	Jamie
Impound 2nd Offense	\$45 first day +\$18 per day thereafter		Fee for a second time dog impound plus daily expense, payable to impound facility	Jamie
Impound 3rd Offense	\$60 first day + \$18 per day thereafter		Fee for a third time or greater dog impound plus daily expense, payable to impound facility	Jamie
Quarantine Boarding Dog/Cat	\$ 350.00 Per Animal		Fee to quarantine an animal	Jamie
Court-ordered Hold and Quarantines in Excess of 10 Days	\$ 35.00 Per Day		Fee to quarantine an animal beyond 10 days	Jamie
Dog Euthanasia & Disposal	\$ 35-50 Depending on Weight		Cost of the procedure of ending the life of a dog, cost dependent upon the weight of the animal	Jamie
Cat Euthanasia & Disposal	\$ 40.00		Cost of the procedure of ending the life of a cat, cost dependent upon the weight of the animal	Jamie

Animal Control Fine Schedule*				
Item	Rate		Definition	Overseer
Rabies/Vaccine (ord. 9.02.090) (ord. 9.02.110)	\$ 150.00		Fee assessed for violation of rabies and vaccine requirements as stated in Ord. 9.02.110.	Jamie
Licensing Requirements (ord. 9.02.050)	\$ 150.00		Fee assessed for violations of City's Licensing Requirements as stated in Ord. 9.02.050.	Jamie
Animal Waste (ord. 9.02.150) (ord. 9.02.170)	\$ 150.00		Fee assessed for leaving animal waste in prohibited areas as stated in Ord. 9.02.170.	Jamie
Dogs in Prohibited Places (ord. 9.02.120(H)) Prohibited Acts and Conditions (ord. 9.02.140)	\$ 150.00		Fee assessed for prohibited acts and conditions as contained in Ord. 9.02.140.	Jamie
Excessive Barking (ord. 9.02.120(F))	\$ 150.00		Deleting	Jamie
Dogs At Large (ord. 9.02.110) (ord. 9.02.130)	\$ 150.00		Fee assessed for dogs at large, as contained in Ord. 9.02.130.	Jamie
Animals At Large (ord. 9.02.110) (ord. 9.02.120)	\$ 150.00		Fee assessed for animals at large, as stated in Ord. 9.02.120.	Jamie
Dangerous Animals (ord. 9.02.080) (ord. 9.02.090)	\$ 500.00		Fee assessed for violations of Ord. 9.02.090, which is the regulation of dangerous animals.	Jamie
Dogs Animals Attacking (ord. 9.02.140) (ord. 9.02.160)	\$ 500.00		Fee assessed for violations of Ord. 9.02.160, which is about animals attacking.	Jamie
Animal Cruelty (ord. 9.02.060)	\$ 500.00		Fee assessed for violations of Ord. 9.02.060, which is about Cruelty to Animals, defined in Utah Code 76-9-301.	Jamie
Wild Animals (ord. 9.02.070)	\$ 160.00		Fee assessed for violations of Ord. 9.02.070, which is about wild animals.	Jamie
Interference with Impounding (ord. 9.02.130(B)) (ord. 9.02.150(D))	\$ 160.00		Fee assessed for violations of Ord. 9.02.150(D), which is about interfering with impounding.	Jamie
Violation of Animal Land Use (ord. 19.34.110)	\$ -	\$150.00 per animal	Fee assessed for infractions of the Animal Land Use policy found in Ord. 19.34.	Jamie

*These fees are payable to the court of jurisdiction, which is currently Hyrum City Court.

These Animal Control ordinances are conditional upon Rob's approval

Charges for Development Services				
Planning Review Fees				
Item	Rate	Proposed Change	Definition	Overseer
Preliminary Plat Fee	\$ 200 + \$10 per lot	\$700 + \$30 per lot	Charged to cover engineering and development review	Levi
Final Plat Filing Fee	\$ 200 + \$10 per lot		Final drawing of subdivision prepared for filing for record with the county and contains name, stamp, and signature of surveyor.	Levi
Engineering Development Review—	1500.00 + \$50 per lot			
Final Plat Fee		\$1700 + \$60 per lot	Engineering Review for final plat and associated document submittals, including construction drawings for final subdivision plat application	Levi
Public Works Inspection Fee	0.075% of Bond Summary	Delete	Delete	Delete
Public Works Inspection Fee for Development/Subdivision		.0075 x Bond Summary	City required inspection required to ensure compliance with City Standards and the integrity of construction of infrastructure	Tom
Public Works Inspection Fee for Commercial Development		.0075 x Bond Summary	City required inspection required to ensure compliance with City Standards and the integrity of construction of infrastructure	Tom
Minor Subdivision Filing Fee	\$ 200.00 + \$10 per lot	\$700 + \$60 per lot	Final drawing of subdivision prepared for filing for record with the county and contains name, stamp, and signature of surveyor	Levi
Engineering Development Review: Minor Subdivision	\$ 500.00 + \$50 per lot		Planning process by which approvals are sought for projects, including but not limited to site plans, conditional use permits, etc.	Levi
Commercial Site Plan Review Fee		\$100/1000 Sq. Ft., maximum \$2500	Engineering Review for site plans and associated document submittals, including construction drawings for commercial, industrial, institutional, and other projects.	Levi
Accessory Building Zoning Clearance Application	\$ 30.00		Application for zoning clearance building that is detached from the principal building	Levi
Subdivision Amendment Application	\$ 30.00	\$200 + \$10/affected lot	Application required when requesting changes for a plat or subdivision that has been already approved	Levi
RPUD Overlay Zone Application	\$ 500.00		Application for Residential Planned Unit Developments overlay zone, including review of development plans and development agreement	Levi
Misc. Planning & Development Application	\$ 30.00	\$ 50.00	Fee charged to cover city staff review for planning and zoning applications that are not otherwise specified in listed fees.	Levi
Conditional Use Permit (No Business License)		\$ 50.00	Application for a conditional use permit that does not require a business license. This fee covers staff review of applications.	Levi
Right-Of-Way Permit		\$ 150.00	The privilege of the immediate use of the roadway, PUE, or other property. Assessed for review of use of or construction within a public right-of-way	Tom
Concept Plan Review		\$ 200.00	A sketch plan of the proposed subdivision in which the City can ensure compliance with zoning, master plans, street plans, etc.	Levi
Rezone, Code Change, or Master Plan Change Application		\$ 500.00	An application requesting changes to a different category of restrictions on use and development	Levi
PUE Vacation		\$ 200.00	Action which terminates a right of way easement when it is no longer necessary	Tom
Water Modeling Fee—paid at Preliminary Plat Application		\$450 Base Fee + \$35/Unit	Development of mathematical and logic-based representations of real world relationships between water use and infrastructure	Levi
Sewer Modeling Fee		\$450 Base Fee + \$35/Unit	Development of mathematical and logic-based representations of real world relationships between sewer use and affects on infrastructure	Tom
Parcel Boundary or Lot Line Adjustment		\$ 200.00	Action which changes or eliminates existing property boundaries where no additional lots/parcels are created	Levi
Public Notice Fee		\$ 150.00	Fee charged to cover costs of noticing any application which requires a public hearing.	Levi
Narrow Trench Encroachment Permit Fee		\$0.45 per lineal foot	Fee charged for installation of utilities using micro-trench installation methods	Tom
Telecommunication Installation Fee		\$0.45 per lineal foot	Fee charged for installation of telecommunication utility within the City ROW or PUE. Not collected for telecommunications installed within and serving new permitted development projects.	Tom
Annexation Petition Application	\$ 200.00	\$ 400.00	Request by property owner to deviate from current zoning laws for any number of reasons	Levi
Variance Request Application	\$ 1,000.00		Request by property owner to change a previous decision	Levi
Land Use Appeal Request Application	\$ 750.00			Levi
Street Sign	\$ 300.00	Remove from Standard Fees	Delete	Austen
Sewer Valve Collar	\$ 450.00	Remove from Standard Fees	Delete	Austen
Water Valve Collar	\$ 350.00	Remove from Standard Fees	Delete	Austen
Stormwater Development Inspection Fee	500.00 Per Year	\$ 750.00 per acre of development	Fee charged by City to comply with State MS4 regulations	Tom
Stormwater for Regional Ponds	3,000.00 Per Lot		Fee charged for each lot to connect development to regional stormwater ponds—Stonebridge and Sunrise Ponds	Tom
P & Z Misc. Applications (Example: Building permits, rezone, concept plans, etc.)	\$ 30.00	Moved to Charges for Services	Moved to Charges for Services	Levi
Annexation Petition Application	\$ 200.00	\$ 400.00	Moved to Charges for Services	Levi
Fee in Lieu of Water Shares	\$ 2500/acre foot		Fee charged to development in-lieu of providing water shares/water rights for development	Tom
Asphalt Preservation	.25 per Sq Foot	\$0.284 per Sq Foot	Fee charged by the City to cover the cost for the first maintenance of new asphalt	Tom
Sunrise Retention Basin	\$ 2,600.00		Fee charged by city to cover the cost of constructing regional pond	Tom
Hansen/Zilles Retention Basin	\$ 2,600.00		Fee charged by city to cover the cost of constructing regional pond	Tom

Building Permits & Impact Fees					
Impact Fees					
Item	Rate	Proposed Change	Definition	Overseer	When is fee assessed?
Sewer Impact Fee 1" Service	\$ 1,725.00		One-time payment to offset the financial impact new development places on City sewer infrastructure	Austen	At time of permit
Sewer Impact Fee 1.5" Service	\$ 3,450.00		One-time payment to offset the financial impact new development places on City sewer infrastructure	Austen	At time of permit
Sewer Impact Fee 2" Service	\$ 5,520.00		One-time payment to offset the financial impact new development places on City sewer infrastructure	Austen	At time of permit
Sewer Impact Fee 3" Service	\$ 10,340.00		One-time payment to offset the financial impact new development places on City sewer infrastructure	Austen	At time of permit
Sewer Impact Fee 4" Service	\$ 20,690.00		One-time payment to offset the financial impact new development places on City sewer infrastructure	Austen	At time of permit
Sewer Impact Fee 5" Service	\$ 780		One-time payment to offset the financial impact new development places on City sewer infrastructure	Austen	At time of permit
Logan Wastewater Treatment Impact Fee (Set by Ordinance 20-15)	\$ 2,433.00		One-time payment that is passed-through to Logan City for impact on their Wastewater Treatment facility	Austen	At time of permit
Commercial Logan Wastewater Treatment Impact Fee	\$ 780				
Water Impact Fee 1" Service	\$ 1,950.00		One-time payment to offset the financial impact new development places on City water infrastructure	Austen	At time of permit
Water Impact Fee 1.5" Service	\$ 3,900.00		One-time payment to offset the financial impact new development places on City water infrastructure	Austen	At time of permit
Water Impact Fee 2" Service	\$ 6,241.00		One-time payment to offset the financial impact new development places on City water infrastructure	Austen	At time of permit
Water Impact Fee 3" Service	\$ 11,701.00		One-time payment to offset the financial impact new development places on City water infrastructure	Austen	At time of permit
Water Impact Fee 4" Service	\$ 23,403.00		One-time payment to offset the financial impact new development places on City water infrastructure	Austen	At time of permit
Water Impact Fee 5" Service	\$ 780		One-time payment to offset the financial impact new development places on City water infrastructure	Austen	At time of permit
Park Impact Fee per Single Family Home	\$ 4,500.00		One-time payment to offset the financial impact new development places on City parks	Austen	At time of permit
Park Impact Fee per Multifamily Unit	\$ 4,500.00		One-time payment to offset the financial impact new development places on City parks	Austen	At time of permit
Transportation Impact Fee Single Family Home	887.00 per unit		One-time payment to offset the financial impact new development places on City roads	Austen	At time of permit
Transportation Impact Fee Multifamily	688.00 per unit		One-time payment to offset the financial impact new development places on City roads	Austen	At time of permit
Transportation Impact Fee Mobile Home	470.00 per unit		One-time payment to offset the financial impact new development places on City roads	Austen	At time of permit
Transportation Impact Fee Shopping Center	2342.00 per 1000 Sq Ft.		One-time payment to offset the financial impact new development places on City roads	Austen	At time of permit
Transportation Impact Fee Office	1522.00 per 1000 Sq Ft.		One-time payment to offset the financial impact new development places on City roads	Austen	At time of permit
Transportation Impact Fee Light Industrial	466.00 per 1000 Sq Ft.		One-time payment to offset the financial impact new development places on City roads	Austen	At time of permit
Transportation Impact Fee Warehouse	354.00 per 1000 Sq Ft.		One-time payment to offset the financial impact new development places on City roads	Austen	At time of permit
Transportation Impact Fee Institutional	1426.00 per 1000 Sq Ft.		One-time payment to offset the financial impact new development places on City roads	Austen	At time of permit
Transportation Impact Fee Hotel	786.00 per 1000 Sq Ft.		One-time payment to offset the financial impact new development places on City roads	Austen	At time of permit
Transportation Impact Fee Food/Fast Food	11,257.00 per 1000 Sq Ft.		One-time payment to offset the financial impact new development places on City roads	Austen	At time of permit
Transportation Impact Fee Gas Station/ Conv	46,015.00 per 1000 Sq Ft.		One-time payment to offset the financial impact new development places on City roads	Austen	At time of permit
State Collected 1% Fee	1% of Building Permit Fees		1.0% fee collected by State on all building permit fees	Austen	At time of permit
Building Permit Fees					
Building Permit	Based on a formula below or latest State adopted IRC manual building permit fees. Valuation is according to building inspector's review.				
Total Valuation	Fee				
\$1-\$500	\$24.00		Cost to obtain official approval to construct a new building or expand or remodel an existing one. Its purpose is to ensure that the project follows all relevant regulations, including building standards, land use, and environmental protection.	Austen	At time of permit
\$501 - \$2,000	\$24 for the first \$500 plus \$3 for each additional \$1000, or fraction thereof, to and including \$2000.		Cost to obtain official approval to construct a new building or expand or remodel an existing one. Its purpose is to ensure that the project follows all relevant regulations, including building standards, land use, and environmental protection.	Austen	At time of permit
\$2,001 - \$40,000	\$69 for the first \$2,000 plus \$11 for each additional \$1000, or fraction thereof, to and including \$40,000.		Cost to obtain official approval to construct a new building or expand or remodel an existing one. Its purpose is to ensure that the project follows all relevant regulations, including building standards, land use, and environmental protection.	Austen	At time of permit
\$40,001 - \$100,000	\$487 for the first \$40,000 plus \$9 for each additional \$1,000, or fraction thereof, to and including \$100,000.		Cost to obtain official approval to construct a new building or expand or remodel an existing one. Its purpose is to ensure that the project follows all relevant regulations, including building standards, land use, and environmental protection.	Austen	At time of permit
\$100,001 - \$500,000	\$1,027 for the first \$100,000 plus \$7 for each additional \$1,000, or fraction thereof, to and including \$500,000.		Cost to obtain official approval to construct a new building or expand or remodel an existing one. Its purpose is to ensure that the project follows all relevant regulations, including building standards, land use, and environmental protection.	Austen	At time of permit
\$500,001 - \$1,000,000	\$3,827 for the first \$500,000, plus \$5 for each additional \$1,000, or fraction thereof, up to and including \$1,000,000.		Cost to obtain official approval to construct a new building or expand or remodel an existing one. Its purpose is to ensure that the project follows all relevant regulations, including building standards, land use, and environmental protection.	Austen	At time of permit
\$1,000,001 - \$5,000,000	\$6,327 for the first \$1,000,000 plus \$3 for each additional \$1,000, or fraction thereof, up to and including \$5,000,000.		Cost to obtain official approval to construct a new building or expand or remodel an existing one. Its purpose is to ensure that the project follows all relevant regulations, including building standards, land use, and environmental protection.	Austen	At time of permit
\$5,000,001 and over	\$18,327 for the first \$5,000,000 plus \$1 for each additional \$1,000, or fraction thereof.		Cost to obtain official approval to construct a new building or expand or remodel an existing one. Its purpose is to ensure that the project follows all relevant regulations, including building standards, land use, and environmental protection.	Austen	At time of permit
Plan Check Fee	improvement. Additional fees for inspections outside of normal business hours may be charged according to IRC fee schedule.		This fee covers the costs to review for code compliance the drawings of the contractor or property owner.	Austen	At time of permit
Water Meter 1"	\$ 700.00		This fee covers the cost of the meter, installation, and fee to connect to the water system.	Austen	At time of permit
Water Meter 2"	\$ 2,200.00		This fee covers the cost of the meter, installation, and fee to connect to the water system.	Austen	At time of permit
Water Meter 3"	\$ 3,904.00	No Future 3" water meters		Austen	At time of permit
Water Meter 4"	\$ 3,942.00	\$ 4,000.00	Meter provided by City and installed by contractor per City's standards.	Austen	At time of permit
Water Meter 6"	\$ 6,500.00	\$ 6,500.00	Meter provided by City and installed by contractor per City's standards.	Austen	At time of permit
Water Meter 2"- 4 Townhomes		Remove from Standard Fees			At time of permit
Water Meter 3"- 6 Townhomes	\$ 367.00	Remove from Standard Fees			At time of permit
Water Meter 2"- Multi-Family	\$ 2,200.00/# of units		This fee covers the cost of the meter, installation, and fee to connect to the water system.	Wendy	At time of permit
Water Meter Lid	\$ 50.00	\$ 85.00	The cost for City staff to replace the lid that protects and covers the water meter	Wendy	At time of permit
Water Meter Ring or Collar	\$ 50.00	\$ 85.00	The cost for city staff to replace a broken water meter ring or collar	Wendy	At time of permit
Water Meter Adjustment (Raise or Lower)	\$ 75.00	\$ 150.00	The cost for City staff to adjust the water meter cover up or down when requested by resident.	Wendy	At time of permit
4" Water Strainer	\$ 700.00		The strainer provides filtration to remove debris, silt, sand, etc from the water line to protect city's pipeline		At time of permit
6" Water Strainer	\$ 1,250.00		The strainer provides filtration to remove debris, silt, sand, etc from the water line to protect city's pipeline		At time of permit
Stormwater Inspection Fee Residential	150.00 Per Year		Fee charged by City to comply with State MS4 regulations	Austen	At time of permit
Stormwater Inspection Fee Commercial	\$1500/acre with minimum of \$500		Fee charged by City to comply with State MS4 regulations	Austen	At time of permit
Development Fees					
Water Connection Fee	\$ 700.00	\$ 550.00	Fee charged by City to pay for the costs of unmettered connections to the City's public water system, such as new waterlines, fire hydrants, fire system connections, meters greater than 4 inches, etc.	Tom/Austen	Prior to permit or final plan approval
Sewer Connection Fee 4"		\$ 500.00	Fee charged by City to pay for the costs of 4" connection to the City's public sewer system.	Tom/Austen	Prior to permit or final plan approval
Sewer Connection Fee 6"		\$ 750.00	Fee charged by City to pay for the costs of 6" connection to the City's public sewer system.	Tom/Austen	Prior to permit or final plan approval
Sewer Connection Fee 8" and larger		\$ 1,250.00	Fee charged by City to pay for the costs of 8" and larger connection to the City's public sewer system.	Tom/Austen	Prior to permit or final plan approval
Sewer Connection Fee Multi-Family		\$ 300.00 per unit	Fee charged by City to pay for the costs of connection to the City's public sewer system.	Tom/Austen	Prior to permit or final plan approval
Right-Of-Way Permit		\$ 150.00	Fee charged by the city to grant permission to applicant for permission to construct, repair, maintain roadway or services in roadway	Tom	At Application
Right-Of-Way Underground Utility and Facility Management Fee		\$0.45 per lineal foot		Tom	At Application of final approval of permit
Road Cut Fee	\$ 3,000.00 (1/2 1/4 refundable)		Cost of a permit to excavate in asphalt, curb & gutter, or sidewalk.	Austen/Tom	At Application of final approval of permit
Miscellaneous Items					
Gas Meter Upgrade Inspection	\$ 25.00				
Domestic Power Upgrade Inspection	\$ 15.00				
Planning and Building Departments-Online Credit Card Convenience Fee	3% of Total Invoice	3.2% of Total Invoice	Fee the City charges to cover the costs of the online processing of credit cards	Any	At time of payment
In-Person Credit Card Convenience Fee		3.0% of Total Invoice	Fee the City charges to cover the costs of processing credit cards presented at the city offices	Any	At time of payment
Logan Wastewater Treatment Impact Fee	\$ 150.00		Fee the City charges to cover administrative costs of paying Logan for the City's tracking and payment to Logan.	Austen	

Solid Waste				
Item	Rate	Definitions		Overseer
60 Gallon can	\$ 14.15	Monthly cost for 60 gallon can to be emptied weekly		Wendy
60 Gallon Extra Empty	\$ 14.15	Monthly cost for 60 gallon can to be emptied a second time		Wendy
90 Gallon Can	\$ 16.40	Monthly cost for 90 gallon can to be emptied weekly		Wendy
90 Gallon Extra Empty	\$ 16.40	Monthly cost for 90 gallon can to be emptied a second time		Wendy
New Homes (Resident Picked Up A/C)	\$ 6.00	One-time cost to pick up a new can from Logan Environmental		Wendy
New Homes (Logan City Delivered A/C)	\$ 27.00	One-time cost to have a new can delivered from Logan Environmental		Wendy
Recycle Container	\$ 3.25	Monthly cost for a recycling can to be emptied weekly		Wendy
Green Waste Container	\$ 5.25	Monthly cost for a green waste container to be emptied weekly		Wendy
Bulk Waste Collection				
Vacancy Status	\$ 5.00			

Bin Size	1	2	3	4	5	6	Definition	Overseer
2	58.11	\$ 115.23	\$ 172.34	\$ 229.45	\$ 286.57	\$ 343.68	Cost of a 2 cubic yard bin to be emptied 1, 2, 3, 4, 5, or 6 times a week	Wendy
3	74.71	\$ 148.42	\$ 222.13	\$ 295.84	\$ 369.55	\$ 443.26	Cost of a 3 cubic yard bin to be emptied 1, 2, 3, 4, 5, or 6 times a week	Wendy
4	99.28	\$ 197.56	\$ 295.84	\$ 394.12	\$ 492.40	\$ 590.68	Cost of a 4 cubic yard bin to be emptied 1, 2, 3, 4, 5, or 6 times a week	Wendy
6	145.82	\$ 290.64	\$ 435.46	\$ 580.28	\$ 725.10	\$ 869.92	Cost of a 6 cubic yard bin to be emptied 1, 2, 3, 4, 5, or 6 times a week	Wendy
8	194.09	\$387.19	580.28	\$ 773.37	\$ 966.47	\$ 1,159.56	Cost of a 8 cubic yard bin to be emptied 1, 2, 3, 4, 5, or 6 times a week	Wendy
Communication Center		Definitions		Overseer				
911 Communication Fee	\$ 3.00	Monthly cost for 911 Communication Fee to Dispatch Center		Wendy				
EMS Charge	\$ 5.00	Monthly cost for access to EMS services		Wendy				

Could work on definition for Communication Fee

Miscellaneous Nibley City Fees				
Item	Rate	Proposed Change	Definition	Overseer
Class B Misdemeanor (ord. 1.08.010)	\$ 1,000.00		Penalty for the violation of any city ordinance, may include fine OR term of imprisonment up to 6 months OR both	Levi
Class C Misdemeanor (ord. 1.08.010)	\$ 750.00		Penalty for the violation of any city ordinance, may include fine OR term of imprisonment up to 90 days OR both	Levi
Class B Misdemeanor for a Corporation (ord. 1.08.010)	\$ 5,000.00		Penalty for the violation by a corporation of any city ordinance; may include fine stated by the court not to exceed fee schedule	Levi
Class C Misdemeanor for a Corporation (ord. 1.08.010)	\$ 1,000.00		Penalty for the violation by a corporation of any city ordinance; may include fine stated by the court not to exceed fee schedule	Levi
Arborist Permit (ord. 3.06.160)	\$ 25.00		Upon being licensed and obtaining liability insurance, permit may be obtained that allows for pruning, treating, or removing street or park trees.	Levi
Penalty for tree noncompliance (ord. 3.06.180)	\$ 1,000.00		Any person found violating the provisions of city tree ordinances may be cited and charged with a misdemeanor and subjected to this fine.	Levi
Misuse of Recycle Bin (ord. 7.06.090)	\$ 50.00		Any person placing prohibited items in recycling bins or leaving litter, items, or debris on the ground near recycling bins is subject to this fine.	Levi
Minors' Truancy (ord. 9.04.030)	\$ 500.00		Any person found violating the provisions of ordinance regarding the truancy of minors and the allowable defenses is subjected to this fine.	Levi
Parking Infractions (ord. 11.02.040)	\$ 25.00		Any person found violating the provisions of the City's parking ordinances as stated in 11.02.040 may be subjected to this fine.	Levi
Hunting on Public Property (ord. 13.08.050)	\$ 500.00		Penalty for the violation of Ord. 13.08.050, which protects against hunting on public property or discharging firearms within 600 feet of a residence	Levi
Franchise Application Fee (ord. 13.10.070)	\$ 500.00		Fee charged by city to offset the cost to review an application for a franchise to be located within the City	Levi
Tree Penalties/Violation (ord. 3.06.180)	\$ 299.00		Penalty for the violation of any provision of the tree ordinances that govern our city	Levi
Sanitary Sewer not Connected (ord. 15.04.040)	\$ 550.00 per day		Daily penalty for any person to fail to connect to the sewer system when their property line is within three hundred feet (300') of the sewer system	Levi
Stormwater Infraction (ord. 15.10.080)	\$750.00 or less		Penalty for minor stormwater violations that is consistent with the severity of the violation.	Levi
Stormwater Criminal Penalties, First Offense (ord. 15.10.080)	\$750.00 or less per day		Penalty for first-time criminal violation of the provisions of stormwater code as contained within our ordinances.	Levi
Stormwater Criminal Penalties, Second Offense (ord. 15.10.080)	\$1000.00 or less		Penalty for second-time or beyond of criminal violation of the provisions of stormwater code as contained within our ordinances.	Levi
Electronic Sign Permit (ord. 19.24.150(L))	\$ 250.00		Prior to construction of an Electronic Message Display, the applicant shall obtain a permit issued after review by the City's Planning Commission.	Levi
Disorderly Conduct Fine for Council Meetings (ord. 1.10.040)	Amount needs to be determined		The City Council may fine or expel any member for disorderly conduct on a 2/3 vote by members of the City Council.	Levi
Failure to Obtain Permit (ord. 13.06.150)	2 x normal permitting fee		Any person found doing work in the public way without a permit is required to pay a permit fee equal to two times the normal permitting fee.	Levi
Nuisance Violation Appeal Application (ord. 7.02.060)	\$ 750.00		Cost to appeal a nuisance violation; fee is refundable in the event that the appeal officer overrides the decision of the code enforcement officer	Levi
Disturbing The Peace (ord. 9.06.040)	\$ 750.00 for 3rd Offense or Greater	New Fee	Failure to comply with the provisions of ordinances about offenses against public peace and property.	Levi
Noise Regulations (ord. 7.16)	\$ 100.00/day	New Fee	Failure to comply with provisions of ordinances regulating noise emission	Levi
Nuisances (ord. 7.02)	\$ 10.00/day	New Fee	Failure to comply with provisions of ordinances regulating nuisances as stated in Ord. 7.02	Levi
Business License Required; Penalty (ord. 5.02.030)	\$ 1,000.00	New Fee	Failure to obtain the type of license required by the City before transacting any business, trade, profession, or operation of vending machine.	Amy
Solicitor License Required; Penalty (ord. 5.08)	Amount needs to be determined	New Fee	Fee charged for failure to obtain the Temporary Business License required by the City prior to engaging or attempting business within the city.	Amy
Unauthorized Meter Penalty	\$ 750.00	New Fee	Fee charged for meter theft, fraudulent use of, interference of meter, or diversion of water services from their intended use and purpose.	Amy

Miscellaneous Nibley City Fees			
Item	Rate	Definition	Overseer
Copy	\$ 0.15	Cost of one copy provided by City	Amy
Postage Fee	\$ 1.00	Cost of a postage stamp for a standard weight letter	Amy
Certified Copies	\$ 5.00	Cost of a certified copy provided by the City	Cheryl
CD/DVD/Flash Drive	\$ 15.00	Cost of a CD/DVD/Flash Drive provided by the City	Cheryl
Notary - Residents Only	FREE	Free notary service for residents of Nibley	Cheryl
CC Payment Over the Phone (Waive one time if they sign up for auto pay)☐	\$ 4.00	Any time a payment is made over the phone, a credit card fee is charged of \$4.00 to cover the increased card processing cost	Amy
GRAMA Request	Actual Cost	Actual cost of labor beyond 15 minutes, by lowest-waged employee able to process request.	Cheryl
Accounts Receivable Late Fee	\$ 5.00		Amy
Accounts Receivable Late Fee Penalty	0.015%/month	Late fee assessed per month on Accounts Receivable balances overdue and unpaid	Amy

Agenda Item #8

Description	Discussion – Ranked Choice Voting Update
Presenter	Cheryl Bodily, City Recorder
Recommendation	Receive the update. Ask questions and give staff direction.
Reviewed By	Mayor, City Manager, City Recorder

Background

Staff received an email on 2-16-23 (see item #8.1) with information that Cache County would not offer Ranked Choice Voting as an option for 2023 municipal elections.

Staff also confirmed that the County is not required to offer Ranked Choice Voting as a service, but if a municipality desires to facilitate a RCV election, they may contract with another County who does offer this service.

Also on 2-16-23, staff received an email from Kelleen Potter, Former Mayor of Heber City and Executive Director of Utah Ranked Choice Voting, *“a non-partisan group dedicated to being resource for municipal governments as they prepare to pilot ranked choice voting.”* (see item #8.2)

Ms. Potter expressed that she would be willing to come speak with Nibley City’s Council at a future meeting and also attempted to address the questions posed by Mayor Jacobsen. However, many of her responses made reference directly back to Cache County.

At this point in time, if Nibley City were to opt to hold an RCV election, Nibley City would need to contract with another County in Utah. At this time, staff are aware that Salt Lake County will offer Ranked Choice Voting but have not ventured to inquire what a contract with Cache County would cost.

Staff would like the City Council to give direction on moving forward and give a thumbs up (move forward with inquiries and solicitations regarding RCV) or a thumbs down (stop inquiries regarding RCV), or something else.

From: [Dustin Hansen](#)
To: [Teresa Harris](#); sfricke@hyrumcity.com; [Cheryl Bodily](#); [Scott Wells](#); [Paul Cressall](#); [Corey Twedt](#); [Scott Bennett](#); [donja w](#); [Karla Ferguson](#); [Trenton Town](#); [Tyler Cameron](#); [Devette Bradley](#); [Justin Lewis](#); [Chris Barr](#); amalga6590@gmail.com; [Kristi Hidalgo](#); [Sheila Lind](#); clerk@paradise.utah.gov
Cc: [Jess Bradfield](#); [Bryson Behm](#); [Elizabeth Jensen](#)
Subject: Ranked Choice Voting
Date: Thursday, February 16, 2023 11:52:09 AM



IRONSCALES couldn't recognize this email as this is the first time you received an email from this sender dustin.hansen@cachecounty.org

---CAUTION--- This email originated from outside of the organization.

Good Morning,

This email is being sent to let you know that Cache County will not have Ranked Choice Voting as an option for the 2023 election.

If your municipality decides to do an RCV election they can do so on their own or contract with another county who is offering that service.

If you have any questions feel free to contact me or the clerk office.

Thank you,

--

Dustin Hansen
Elections Supervisor
Cache County Corporation
Cell- 435-919-4144
Office- 435-755-1464

From: [Kelleen Potter](#)
To: [Cheryl Bodily](#)
Cc: [Jess Bradfield](#)
Subject: Re: Form Submission - New Form
Date: Thursday, February 16, 2023 12:57:34 PM
Attachments: [Better Faster Cheaper small.png](#)

 IRONSCALES finds this email suspicious! We know Kelleen Potter by name, but the email was sent from an unfamiliar address kelleen@utahrcv.com | [Know this sender?](#)

---CAUTION--- This email originated from outside of the organization.

Cheryl,

Thanks for your email. I'm happy to get any information you need and would be glad to either attend your meeting or have someone else from our team depending which day you decide to hold it. I've copied your county clerk Jess Bradfield on this email and he can pitch in also.

Will the State or County publish in advance the algorithm used for multiple-winner RCV elections?

If by "algorithm" you mean the process by which the ballots are counted it's detailed in statute (20A-4-603) but I assume the county clerk could provide it in a format that would help the council understand it better.

Will the State or the County respond to questions about that algorithm?

Absolutely - we could also get the software vendor to answer questions if that is helpful.

Will the State or County provide training, explained at a level appropriate to the electorate, about that algorithm? There is room to define "appropriate to the electorate".

I'm happy to make that request to the state and/or county. I'd love to talk more about what they would like that training to look like.

Is there an option to do RCV on single-winner elections, and traditional voting on multiple-winner elections? I'm not sure if Nibley would want to do this or not. However, we can quit considering it if it's not an option.

As far as the law is concerned that is fine and is the city's choice. I would just confirm with the county clerk. My understanding is it is a programming issue at the county level.

Will the above questions be answered before Nibley City must decide about RCV for the next municipal election?

I'm happy to facilitate getting the info you need from the state and county if that is helpful.

Feel free to reach out with more questions as they arise.

Best,

Kelleen Potter

Executive Director

Utah Ranked Choice Voting

435-709-1021 (mobile)

801-810-1404 (office)

utahrcv.com



On Feb 14, 2023, at 2:16 PM, Squarespace <form-submission@squarespace.info> wrote:

Sent via form submission from [Utah Ranked Choice Voting](#)

Name: Cheryl Bodily

Email: cheryl@nibleycity.com

Message: Good Afternoon,

I work for Nibley City. I am their City Recorder and the one directly responsible for our city's elections. The Nibley City Council would like to speak with a representative of Ranked Choice Voting at an upcoming City Council meeting (we are happy to accommodate this over a Zoom link if needed). We would like to have this discussion as soon as possible; or as early as Thursday, February 23rd or the following meeting on Thursday, March 9, 2023.

Nibley City conducted a Ranked Choice Voting election in 2021 and the process left our Mayor and City Council with some questions. I have tabulated some of these questions and continue to seek their feedback and questions. The questions I have compiled so far are the following:

Will the State or County publish in advance the algorithm used for multiple-winner RCV elections?

Will the State or the County respond to questions about that algorithm?

Will the State or County provide training, explained at a level appropriate to the electorate, about that algorithm? There is room to define "appropriate to the electorate".

Is there an option to do RCV on single-winner elections, and traditional voting on multiple-winner elections? I'm not sure if Nibley would want to do this or not. However, we can quit considering it if it's not an option.

Will the above questions be answered before Nibley City must decide about RCV for the next municipal election?

These questions are quite complex. If you could help me get them to the appropriate resources, I would greatly appreciate it and I look forward to hearing from someone about having a discussion with the Nibley City Council.

Best Regards,

Cheryl Bodily, CMC
Nibley City Recorder/HR Director
cheryl@nibleycity.com

Does this submission look like spam? [Report it here.](#)

Agenda Item #10

Description	Discussion & Consideration – Ordinance 23-08: Amendment to the Nibley City R-PUD Development Agreement between Nibley City and 7 Point Royal, LLC for Nibley Meadows Subdivision (First Reading)
Presenter	Levi Roberts, City Planner
Planning Commission Recommendation	Move to approve Ordinance 23-08: Amendment to the Nibley City R-PUD Development Agreement between Nibley City and 7 Point Royal, LLC for Nibley Meadows Subdivision and waive second reading
Reviewed By	Mayor, City Manager, City Engineer, City Planner, City Attorney, Planning Commission

Background

7 Point Royal, LLC previously obtained approval for Nibley Meadows, a 273-unit R-PUD subdivision, located south of 3200 S and east of 1200 W. The development has received approval for the R-PUD overlay zone and for the overall preliminary plat. Through the process of reviewing the Final Plat and construction drawings for the subdivision, potential wetlands were identified on the site that potentially affect 3 single family lots and 12 townhome units. If the developer were to proceed with building the lots, they would be required to mitigate the impact of the wetlands. Rather than proceeding with construction on these lots, the developer would like to proceed with the development, while designating these areas as “remainder parcels” that are not buildable until and unless the affected wetland areas are approved by the U.S. Army Corps of Engineers to be removed. Based upon the developer’s engineer, these wetland areas are likely present due to tail water that is related to irrigating the agricultural lands on the property. Once developed and the area is no longer irrigated, the wetland areas are suspected to dry up.

The proposed amendment to the development agreement addresses the wetlands and the planned future residential units that are affected. Specifically, the following summarized terms are included in the agreement:

1. The development plans are amended that include the potential wetlands and a re-aligned roadway (to avoid the potential wetland area). It should be noted that this does have a minor impact upon the designated City Park area, which is now shown as approximately 4.38 acres (previously 4.5).
2. An allowance for the developer to plat the remaining unaffected lots and plat the lots affected by the potential wetland areas as “remainder parcels” that cannot

built upon until and unless the affected wetland areas are approved by the U.S. Army Corps of Engineers to be removed.

3. The lots affected by wetlands cannot be reallocated to different areas.
4. Developer may seek to adjust, mitigate and/or remove wetlands consistent with federal law.
5. If the developer is able to remove wetlands through the Army Corps of Engineers, they may seek approval to build upon these areas
6. Approval and recordation of final plat may not occur until the wetland delineation is approved by the Army Corps of Engineers.

ORDINANCE 23-08

**AMENDMENT TO NIBLEY CITY R-PUD DEVELOPMENT AGREEMENT BETWEEN
NIBLEY CITY AND 7 POINT ROYAL, LLC REGARDING NIBLEY MEADOWS**

WHEREAS, Nibley Meadows is an approved R-PUD Subdivision; and

WHEREAS, the City Council created the Residential Planned Unit Overlay Zone to allow a greater diversity of housing types and developments; and

WHEREAS, it is in the interest of Nibley City to protect and, if necessary, mitigate impacts to wetlands and other sensitive lands; and

WHEREAS, certain potential wetlands exist on the property that potentially impact the development of proposed residential lots.

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

1. The attached Amendment to the Development Agreement be approved
2. The Amendment shall not take place until the Developer and City have signed the attached Agreement and said Agreement has been properly recorded as required by Nibley City Code.
3. All ordinances, resolutions and polices of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving and law, order, resolution or ordinance or part thereof.

PASSED BY THE NIBLEY CITY COUNCIL THIS ____ DAY OF _____

Larry Jacobsen, Mayor

ATTEST:

Cheryl Bodily, City Recorder

**AMENDMENT TO NIBLEY CITY R-PUD DEVELOPMENT AGREEMENT BETWEEN
NIBLEY CITY AND 7 POINT ROYAL, LLC REGARDING NIBLEY MEADOWS**

This is an Amendment (“**Amendment**”) to the Nibley City R-PUD Development Agreement, dated February 10, 2022 (“**Agreement**”) and recorded as Entry 1312661, Book 2320 Page 1748, on February 17, 2022, by and between Nibley City (“**City**”) and 7 Point Royal, LLC (“**Developer**”), regarding a particular property more particularly described below and development known as Nibley Meadows (“**Development**”), which Amendment is effective as of the date executed by all parties.

WEST PORTION OF PARCEL 03-018-0017

A portion of that Real Property described as Parcel No. 4 in Deed Book 2098 Page 582 of the Official Records of Cache County, more particularly described as follows:

Beginning at a point located N89°51'19”W along the 1/4 Section line 1,738.24 feet and South 1,899.48 feet from the East 1/4 Corner of Section 20, T11N, R1E, S.L.B.& M.; thence S1°26'52”W 667.72 feet to the southeast corner of said Lot 11; thence N88°52'18”W 663.98 feet along the south line of said Lot 11 to the east line of 1200 West Street; thence N0°55'52”E 658.11 feet along said east line to the north line of said Lot 11; thence S89°41'33”E 670.04 feet to the point of beginning.

Contains: 10.15+/- acres

EAST PORTION OF PARCEL 03-018-0017

A portion of that Real Property described as Parcel No. 4 in Deed Book 2098 Page 582 of the Official Records of Cache County, more particularly described as follows:

Beginning at the northwest corner of Lot 9, Block 16, MILLVILLE WEST FIELD SURVEY, located N89°51'19”W along the 1/4 Section line 1,655.58 feet and South 1,240.72 feet from the East 1/4 Corner of Section 20, T11N, R1E, S.L.B.& M.; thence S88°52'07”E 662.02 feet; thence S1°23'06”W 1327.32 feet to the south line of Lot 8, Block 16 of the Millville West Field Survey; thence N88°54'29”W 663.48 feet to the southwest corner of said Lot 8; thence N1°26'52”E 1327.79 feet to the point of beginning.

Contains: 20.20+/- acres

PARCEL 03-050-0001

SURVEY DESCRIPTION

The North 1/2 of Lot 13, Block 15, MILLVILLE WEST FIELD SURVEY, located in the NE1/4 of Section 29, Township 11 North, Range 1 East, Salt Lake Base & Meridian, located in Nibley, Utah, more particularly described as follows;

Beginning at the northeast corner of Lot 13, Block 15, MILLVILLE WEST FIELD SURVEY, located N89°51'19”W along the 1/4 Section line 1,771.75 feet and South 3,225.29 feet from the East 1/4 Corner of Section 20, T11N, R1E, S.L.B.& M.; thence S1°26'52”W 329.32 feet; thence N88°53'56”W 653.39 feet; thence N0°50'00”E 330.37 feet; thence S88°48'24”E 656.92 feet to the point of beginning.

Contains: 4.96+/- acres

PARCEL 03-050-0007

SURVEY DESCRIPTION

All of Lot 7, Block 16, MILLVILLE WEST FIELD SURVEY, located in the SE1/4 of Section 20 & the NE1/4 of Section 29, T11N, R1E, S.L.B.& M., more particularly described as follows:

Beginning at the northeast corner of Lot 7, Block 16, MILLVILLE WEST FIELD SURVEY, located N89°51'19"W along the 1/4 Section line 362.41 feet and South 2,590.10 feet from the East 1/4 Corner of Section 20, T11N, R1E, S.L.B.& M.; thence S1°19'19"W 660.84 feet; thence N88°48'24"W 1,328.40 feet; thence N1°26'52"E 658.50 feet; thence S88°54'29"E 1,326.97 feet to the point of beginning.

Contains: 20.11+/- acres

RECITALS

- A. Developer has obtained approval of an R-PUD zone for the Development pursuant the Agreement and is in the process of preparing final plats related to the Development.
- B. Developer has determined that certain wetlands ("**Wetlands**") exist within the Development that restrict the Development as planned and authorized in the Agreement.
- C. The parties desire to amend the Agreement and the Development Plans, as defined and included within the Agreement, for the Development to address the Wetlands and the planned future residential units affected thereby.

TERMS

- 1. All terms, conditions, and provisions of the Agreement, the separate Nibley City Park Development Agreement, and any other official agreement, approval, land use decision, or rezone issued or granted by the City remains in effect and unchanged by this Amendment, except as expressly set forth herein.
- 2. A portion of the Development Plans, page 8 are amended and replaced with the plan attached hereto as Exhibit A ("**Amended Plans**").
- 3. Developer may proceed with preparing and seeking City approval of a final plat(s) for the portion of the Development addressed by the Amended Plans, provided that the property containing the Wetlands shall be designated in such final plat(s) as "remainder parcels" - not developed with this plat and subject to potential future development restrictions as set forth in the Nibley City approved Development Agreement with Amendment(s).
- 4. The residential units previously planned to be developed on the property covered by the Wetlands shall not be reallocated or moved to other property within the Development without the approval of the City.
- 5. Developer may seek to adjust, mitigate, and remove the Wetlands, consistent with federal law and all requirements and regulations of the U.S. Army Corps of Engineers and any other applicable state or federal agency. In doing so, Developer shall be solely responsible and liable for all effort, cost, and work necessary to obtain and carry out all required approvals related to the Wetlands. In no event shall City be responsible or liable for Developer's compliance with any requirement or regulation related to the Wetlands.

6. If Developer is successful in obtaining approval from the U.S. Army Corps of Engineers and any other applicable state or federal agency such that Developer is authorized to construct some or all of the previously planned residential units on and within the Wetlands areas, Developer may prepare and seek City approval of one or more final plats that permit the development of the lots and parcels created containing the Wetlands, created pursuant to section 3 of this Amendment. Any such final plat(s) shall provide for the development of only the number, density, and type of residential units previously authorized under the Agreement for those areas.
7. Approval and recordation of any final plat shall be granted only in conformance with an approved U.S. Army Corps of Engineers Wetland Delineation and applicable Mitigation, if required, and conditioned on Developer's compliance with the Agreement, this Amendment, and all other applicable Nibley City standards, regulations, and ordinances, subject to Developer's vested rights under the Development and Agreement as amended herein.

Exhibit A
Amended Plans

NIBLEY CITY

DEVELOPER

By: JUSTIN MAUGHAN
Its: City Manager

By:
Its:

STATE OF UTAH)

:ss

County of Cache)

On this ____ day of _____, 2023, personally appeared before me JUSTIN MAUGHAN, City Manager, the signer of the within instrument, who duly acknowledged to me that he executed the same as City Manager for Nibley City Corporation.

NOTARY PUBLIC

STATE OF UTAH)

: ss

County of Cache)

On the ____ day of _____, 2023, personally appeared before me, _____, Developer, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

NOTARY PUBLIC

P:\2019\19-368_7 Point Royal, LLC-Nibley\AutoCAD\landscape\Sheet Set\19-368 rendering - 1.26.23.MET



PROJECT NOTES:

GENERAL PROJECT DESCRIPTION: THE DEVELOPMENT WILL INCLUDE A MIX OF SINGLE-FAMILY AND TOWNHOME DWELLINGS. THE DEVELOPMENT WILL CONTAIN MORE THAN 35% OPEN SPACE THAT WILL INCLUDE POCKET PARKS, LINEAR PARKS, AND TRAILS. VARIOUS AMENITIES WILL ALSO BE PROVIDED.

CULINARY WATER SYSTEM: WATER MAINS WILL BE INSTALLED IN ALL PUBLICLY DEDICATED RIGHTS-OF-WAY AND MAJOR PRIVATE DRIVES. WATER MAINS WILL CONNECT TO CITY SYSTEM IN 3200 SOUTH AND IN 3500 SOUTH (THE SOUTHERNMOST EAST-WEST ROAD).

SEWER SYSTEM: THE NORTHERN 10 ACRES OF THE PROJECT MAY DRAIN TO THE EXISTING LINE IN 3200 SOUTH OR SOUTH TO THE NEW SEWER LINE. THE REMAINING SOUTH PORTION OF THE PROJECT WILL DRAIN TO THE SEWER STUB ON THE WEST OF THE PROJECT CURRENTLY BEING INSTALLED AS PART OF THE NIBLEY FARMS SUBDIVISION.

SECONDARY WATER SYSTEM: NOT PROPOSED.

SOLID WASTE: INDIVIDUAL TRASH PICKUP IS PROPOSED FOR ALL UNITS CONTAINED WITHIN THE DEVELOPMENT.

STORM WATER: THE 100-YR 24-HR STORM WILL BE DETAINED ON SITE. GIVEN EXTREMELY SHALLOW GROUNDWATER (APPROXIMATELY 2-FT DEEP), IT MAY NOT BE FEASIBLE TO FULLY RETAIN THE 90TH-PERCENTILE STORM. THE REQUIRED DETENTION VOLUME WILL BE STORED IN OPEN SPACE AREAS THROUGHOUT THE SITE AND THEN RELEASED AT THE PRE-DEVELOPMENT RUNOFF RATE INTO EXISTING ADJACENT DITCHES. ROADSIDE SWALES COULD ALSO SERVE AS A POTENTIAL STORAGE LOCATION FOR STORM WATER RUNOFF.

PARKS & RECREATION: THE PROPOSED TRAIL AND OPEN SPACES THAT ARE BEING PROPOSED WILL INTEGRATE WITH THOSE PROPOSED TO THE WEST AS PART OF THE NIBLEY FARMS SUBDIVISION AND TO OTHER FUTURE MASTER-PLANNED TRAILS. THE OPEN SPACE PLAN IS COMPATIBLE WITH THE CITY PARKS AND OPEN SPACE MASTER PLAN.

ROADWAYS: 1000 WEST/900 WEST, A MASTER PLANNED ROADWAY, WILL BE CONSTRUCTED IN ACCORDANCE WITH STANDARD CITY CROSS SECTION "TS-7". COLLECTOR: 2-LANE STREET, ON-STREET PARKING PERMITTED, 66' ROW. ALL OTHER PUBLICLY DEDICATED ROADS WILL BE STANDARD CITY CROSS SECTION "TS-13": LOCAL: 2-LANE LOCAL, 60' ROW. A HALF WIDTH WILL BE CONSTRUCTED ON 3200 SOUTH PER THE "3 LANE STREET, BIKE LANE & TRAIL FACILITY" CROSS SECTION. A HALF WIDTH WILL BE CONSTRUCTED ON 1200 WEST PER STANDARD CITY CROSS SECTION "TS-3". ARTERIAL: 2-LANE STREET, BUFFERED BIKE LANE & TRAIL FACILITY, 80 FT RIGHT OF WAY. PRIVATE ROADS WILL BE CONSTRUCTED TO FIRE CODE REQUIREMENTS.

SENSITIVE LANDS: THE PROJECT CONTAINS POTENTIALLY JURISDICTIONAL WETLANDS AS SHOWN.

PARKING: STREET PARKING ON PUBLIC STREETS WILL NOT BE USED TO MEET PARKING REQUIREMENTS.

DATA TABLE

TOTAL AREA: 54.60 ACRES
• NET DEVELOPABLE LAND (80%): 43.68 ACRES

DENSITY AND RATIO

TOTAL ALLOWABLE UNITS: 436 UNITS
• MAXIMUM TOWNHOMES: 262 UNITS
• MAXIMUM SINGLE FAMILY HOMES: 174 HOMES
• TOTAL UNITS PROPOSED: 273 UNITS
• TOWNHOMES PROPOSED: 153 UNITS
• SINGLE FAMILY HOMES PROPOSED: 120
• RATIO 55% TOWNHOMES, 44% SINGLE FAMILY

OPEN SPACE

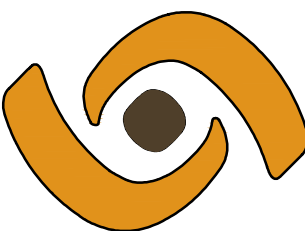
• REQUIRED: 15.29 ACRES (35% OF NET DEVELOPABLE LAND)
• PROVIDED INCLUDING SIDEWALK & PARK STRIP: 20.62 ACRES (47.2% OF NET DEVELOPABLE LAND)
• PROVIDED EXCLUDING SIDEWALK & PARK STRIP: 17.54 ACRES (40.2% OF NET DEVELOPABLE LAND)

PARKING FOR TOWNHOMES

• PRIVATE GARAGE STALLS PROVIDED: 306
• GUEST STALLS REQUIRED: 51
• GUEST STALLS PROVIDED: 134

THESE PLANS AND SPECIFICATIONS ARE THE PROPERTY OF CIVIL SOLUTIONS GROUP, INC. AN SHALL NOT BE PHOTOCOPIED, RE-DRAWN, OR USED ON ANY OTHER PROJECT OTHER THAN THE PROJECT SPECIFICALLY DESIGNED FOR, WITHOUT WRITTEN PERMISSION. THE OWNERS AND ENGINEERS OF CIVIL SOLUTIONS GROUP, INC. DISCLAIM ANY LIABILITY FOR ANY CHANGES OR MODIFICATIONS MADE TO THESE PLANS OR THE DESIGN THEREON WITHOUT THEIR CONSENT. THESE PLANS ARE DRAWN TO SCALE WHEN PLOTTED ON A 24" X 36" SHEET OF PAPER. THESE PLANS ARE PRODUCED IN COLOR AND SHOULD BE PLOTTED AS SUCH.

civilsolutionsgroup inc.



CACHE VALLEY | P: 435.213.3762
SALT LAKE | P: 801.216.3192
UTAH VALLEY | P: 801.874.1432
info@civilsolutionsgroup.net
www.civilsolutionsgroup.net

NIBLEY MEADOWS
1000 WEST 3200 SOUTH
NIBLEY, UT

MARK	DATE	DESCRIPTION

PROJECT #: 19-368
DRAWN BY: J. HENDRICKSON
PROJECT MANAGER: J. HENDRICKSON
ISSUED: 02.01.23

**AMENDMENT
TO R-PUD**

SHEET 1 OF 1

**NIBLEY CITY
R-PUD DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT ("Agreement"), entered into this 10 day of FEB, 2022, between 7 Point Royal, LLC, hereinafter referred to as "Developer" and Nibley City, here in after referred to as "City", and

WHEREAS, Nibley Meadows, hereinafter referred to as "the Development" seeks to obtain approval as a Residential Planned Unit Development ("R-PUD") under Nibley City Code Title 19, Chapter 32 ("R-PUD Ordinance") and more particularly described as the following:

WEST PORTION OF PARCEL 03-018-0017

A portion of that Real Property described as Parcel No. 4 in Deed Book 2098 Page 582 of the Official Records of Cache County, more particularly described as follows:

Beginning at a point located N89°51'19"W along the 1/4 Section line 1,738.24 feet and South 1,899.48 feet from the East 1/4 Corner of Section 20, T11N, R1E, S.L.B. & M.; thence S1°26'52"W 667.72 feet to the southeast corner of said Lot 11; thence N88°52'18"W 663.98 feet along the south line of said Lot 11 to the east line of 1200 West Street; thence N0°55'52"E 658.11 feet along said east line to the north line of said Lot 11; thence S89°41'33"E 670.04 feet to the point of beginning.

Contains: 10.15+/- acres

EAST PORTION OF PARCEL 03-018-0017

A portion of that Real Property described as Parcel No. 4 in Deed Book 2098 Page 582 of the Official Records of Cache County, more particularly described as follows:

Beginning at the northwest corner of Lot 9, Block 16, MILLVILLE WEST FIELD SURVEY, located N89°51'19"W along the 1/4 Section line 1,655.58 feet and South 1,240.72 feet from the East 1/4 Corner of Section 20, T11N, R1E, S.L.B. & M.; thence S88°52'07"E 662.02 feet; thence S1°23'06"W 1327.32 feet to the south line of Lot 8, Block 16 of the Millville West Field Survey; thence N88°54'29"W 663.48 feet to the southwest corner of said Lot 8; thence N1°26'52"E 1327.79 feet to the point of beginning.

Contains: 20.20+/- acres

PARCEL 03-050-0001

SURVEY DESCRIPTION

The North 1/2 of Lot 13, Block 15, MILLVILLE WEST FIELD SURVEY, located in the NE1/4 of Section 29, Township 11 North, Range 1 East, Salt Lake Base & Meridian, located in Nibley, Utah, more particularly described as follows;

Beginning at the northeast corner of Lot 13, Block 15, MILLVILLE WEST FIELD SURVEY, located N89°51'19"W along the 1/4 Section line 1,771.75 feet and South 3,225.29 feet from the East 1/4 Corner of Section 20, T11N, R1E, S.L.B. & M.; thence S1°26'52"W 329.32 feet; thence N88°53'56"W 653.39 feet; thence N0°50'00"E 330.37 feet; thence S88°48'24"E 656.92 feet to the point of beginning.

Contains: 4.96+/- acres

PARCEL 03-050-0007

SURVEY DESCRIPTION

All of Lot 7, Block 16, MILLVILLE WEST FIELD SURVEY, located in the SE1/4 of Section 20 & the NE1/4 of Section 29, T11N, R1E, S.L.B.& M., more particularly described as follows:

Beginning at the northeast corner of Lot 7, Block 16, MILLVILLE WEST FIELD SURVEY, located N89°51'19"W along the 1/4 Section line 362.41 feet and South 2,590.10 feet from the East 1/4 Corner of Section 20, T11N, R1E, S.L.B.& M.; thence S1°19'19"W 660.84 feet; thence N88°48'24"W 1,328.40 feet; thence N1°26'52"E 658.50 feet; thence S88°54'29"E 1,326.97 feet to the point of beginning.

Contains: 20.11+/- acres

WHEREAS, the approval of an R-PUD requires the City, by legislative act, to apply the R-PUD overlay zone to the Development, which act is preconditioned on the Developer entering into and complying with the terms of this Agreement; and

WHEREAS, the Developer has prepared development plans for the Development, including a preliminary site plan, proposed amenity improvements, proposed open space, total number of units to be developed, and other supporting documentation as required by the City and the R-PUD Ordinance, ("Development Plans") which plans are attached hereto and made part of this Agreement as Exhibit "A"; and

WHEREAS, it is necessary for the interest of the public welfare that the Development be developed and improved according to the specifications set forth in Nibley City Ordinances and Design Standards and this Agreement; and

NOW, THEREFORE, to induce Nibley City to approve the proposed R-PUD development and rezoning, the Developer does hereby unconditionally promise and agree with Nibley City as follows:

1. Developer hereby acknowledges receipt of a copy of the Nibley City Subdivision Ordinance, Nibley City Code Title 21, the R-PUD Ordinance and the Nibley City Design Standards. Developer hereby acknowledges that Developer, or an agent of Developer, has read and understands the provisions of the ordinances and standards and that Developer will fully and completely comply with the provisions and requirements therein contained.

2. Developer hereby acknowledges that the execution of this Agreement, on its own, does not constitute final plat approval, approval of the R-PUD rezone, or permission to begin development, and that any such approvals granted by the City may be granted only upon Developer's compliance with the terms of the Nibley City Ordinances, Design Standards, and this Agreement.

3. This Agreement, including the Development Plans attached hereto, shall govern the Development. The Developer shall develop, construct, improve, and maintain the Development in a way that is substantially similar to the Development Plans which include 153 townhome units and 120 single family lots. In no event may the number of units in the Development exceed the number of units described in the Development Plans.

4. Developer shall develop and construct all open space, landscaping, housing units, utilities, amenities, roadways, and all other improvements in accordance with the standards listed within Nibley City Design Standards, Nibley City Code Title 21, Nibley City Code Title 19 Chapter 32.

5. Developer shall develop the park and amenities in proportional phases as required in NCC 19.32.050(A).

6. The Developer shall make a charitable donation to the city of approximately 4.5 acres to the City at the time of Phase One Final Plat, free and clear, located at approximately 3350 South 1200 West, as shown on the attached Development Plans, for use as a City park ("City Park Space").

- a. The City and Developer shall enter into a separate Park Development Agreement for improvement of said the City Park Space, as described herein. That agreement shall cover amenities, infrastructure, landscaping, phasing, and development. The City, or the person or entity selected by the City, shall design the future City Park Space and all improvements incorporated therein.
- b. The Developer shall develop and construct the City Park Space as determined and designed by the City.
- c. Funding: The Developer shall pay for the design, development, and construction of the City Park Space as described in the Development Plans through park impact fees generated from the Development. The Park Development Agreement shall review and allocate the park impact fees generated from the Development Nibley Meadows development in accordance with this section. Up to 50% of park impact fees generated from the Development may be used to fund the design, development, and construction of the City Park Space. All other impact fees may be assessed, collected, and used as set forth in Nibley City Code. The City may waive, offer a credit for, or reimburse impact fees as set forth in Nibley City Code for Developer's provision of park amenities, infrastructure, landscaping, and improvements, provided that the Developer shall not receive a waiver, credit, or reimbursement of any impact fees due to the dedication of the park space. Any expenditure of park impact fees shall be in addition to the developer's required provision of open space and amenities as set forth in Nibley City Code
- d. The developer shall pay for the first 25 parking stalls, all road cross-section improvements to the access road and 1200 West surrounding the park, all trails within the park, sewer stubs for the restroom, \$150,000 toward a park splash pad (the

cost of which is indexed to inflation based upon February 25, 2021 costs), and \$60,000 towards a park restroom independent of all impact fees.

- e. The park construction shall be proportionally phased in construction with each phase of development of Nibley Meadows R-PUD. The Park Development Plan shall contain a phasing plan for construction of the park space.
 - f. If the Development was previously subject to greenbelt property tax exceptions, Developer shall be responsible for all rollback taxes or in lieu fee payments imposed in connection with the dedication and change in ownership of the Open Space, which obligation shall survive the execution of any deed in connection with the dedication.
7. Developer shall install an 8-foot wide trail along the existing 1100 West Right-of-way. The transition from a road right-of-way to a trail right-of-way will not occur until the completion of phase 11 on the development plans to maintain access for agricultural parcels south of the development.
8. Developer shall provide a preliminary maintenance plan with the Preliminary Plat for the maintenance of amenities as required by NCC 19.32.050(B).
9. This Agreement and the Development Plans may be revised or amended only upon the approval of the Nibley City Council, with the recommendation of the Planning Commission.
10. Developer shall ensure that there are no holders of interests that are superior in title to this Agreement, and that all interests, including but not limited to liens, mortgages, deeds of trust, and other similar devices, have been made subordinate to this Agreement. Developer shall provide such documentation as is necessary to establish these facts prior to receiving final plat approval or approval of the R-PUD rezone.
11. Developer shall comply with all applicable federal, state, county and City requirements, regulations and laws for each aspect of this Development, including payment of fees, provision of bonds and other guarantees, and compliance with design and construction standards. Nothing in this Agreement shall be deemed to relieve Developer from the obligation to comply with all such applicable laws, ordinances and requirements as now existing and as enacted and/or amended prior to construction. In the event of a conflict between this Agreement and any applicable federal, state, county, or city requirement, regulation, or law, the federal, state, county, or city requirement, regulation, or law shall prevail to the extent of such conflict.
12. Developer shall not engage in any construction or disturbance of soil in the development prior to issuance of the Notice to Proceed by the Public Works Director.
13. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto mentioned and permitted successors and assigns including all parties who acquire title to any portion of the Development; provided, however, that this Agreement

cannot be otherwise assigned, transferred or conveyed by either party, without the express, written consent of the other party.

14. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this Agreement shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this Agreement shall remain in full force and affect.

15. Time is of the Essence. Time is of the essence to this Agreement and every right or responsibility shall be performed within the times specified.

16. Mutual Drafting. Each party has participated in negotiating and drafting this Agreement and therefore no provision of this Agreement shall be construed for or against either party based on which party drafted any particular portion of this Agreement.

17. Entire Agreement. This Agreement, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all parties.

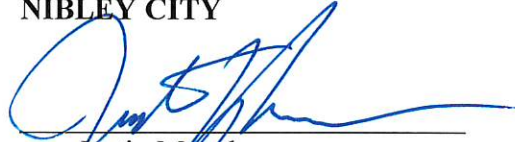
18. No Third Parties. This Agreement, and all Exhibits thereto, is intended for the sole benefit of the named parties thereto. No third party, except for permitted successors and assigns, shall have any right to enforce any of the terms or obligations herein.

19. Recordation and Running with the Land. This Agreement shall be recorded in the chain of title for the Development. This Agreement shall be deemed to run with the land and bind all future owners of any part of the Development.

20. Attorney Fees. Both Parties shall pay for their own attorney fees and costs arising out of or connected in any way to the execution of this Agreement. Any Party that prevails in any legal proceeding, including court proceedings, arbitration, and administrative proceedings, to enforce this Agreement or adjudicate any issues under or in connection with this Agreement will be entitled to recover its reasonable attorney fees, costs, and expenses of such proceedings.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

NIBLEY CITY


Justin Maughan
By: 
Its: City Manager

DEVELOPER


7 Point Royal, LLC
By: Stan T. Rowlan
Its: Manager

By: _____

STATE OF UTAH)
 :SS
County of Cache)

On this 10 day of February, 2022, personally appeared before me Justin Maughan, City Manager, the signer of the within instrument, who duly acknowledged to me that he executed the same as City Manager for Nibley City Corporation.




NOTARY PUBLIC

STATE OF UTAH)
 : SS
County of Cache)

On the 11 day of January, 2022, personally appeared before me, Stan T. Rowlan, Developer, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.




NOTARY PUBLIC

Exhibit A
Development Plans

Agenda Item #11

Description	Discussion & Consideration – Ordinance 23-09: Park Development Agreement Between Nibley City and 7 Point Royal, LLC for Nibley Meadows Subdivision (First Reading)
Presenter	Levi Roberts, City Planner
Recommendation	Move to approve Ordinance 23-09: Park Development Agreement Between Nibley City and 7 Point Royal, LLC for Nibley Meadows Subdivision and waive second reading
Reviewed By	Mayor, City Manager, City Engineer, City Planner, City Attorney, Planning Commission

Background

The approved Development Agreement for the Nibley Meadows Subdivision includes a provision that the developer shall donate an approximately 4.5 acre area for a City Park. The agreement states that the City and Developer shall enter into a separate Park Development Agreement for improvement of said the City Park Space, as described herein. That agreement shall cover amenities, infrastructure, landscaping, phasing, and development. The proposed park agreement includes the following provisions:

1. Upon the issuance of final plat approval, the park area must be dedicated to the City.
2. The City will design the park space through the use of impact fees. Once the City obtains at least \$80,000 in impact fees, the City shall commence the design process for the park within the next fiscal year.
3. The City is responsible for the construction of park improvements from impact fees generated by the park with the exception of the following:
 - a. All road improvements on both sides of 3410 S (street abutting park)
 - b. Stub sewer and water to the park as part of phase 1
 - c. Pay the city \$60,000 toward the cost of constructing a restroom prior to the issuance of 200th building permit
 - d. Build a splash pad or pay the City \$150,000 (inflated from the time of final acceptance of Phase 1) toward constructing a splash pad prior to 200th building permit.
 - e. Install 25 parking stalls and all trails and walkways or pay the City the equivalent cost of such improvements prior to the issuance of the 100th building permit.
4. Developer shall supply water shares or rights for the park area, as determined by City Engineer, in accordance with Nibley City Code.

5. The Developer of project HOA is responsible for maintaining the adjacent stormwater basin.

ORDINANCE 23-09

**PARK DEVELOPMENT AGREEMENT BETWEEN NIBLEY CITY AND 7 POINT
ROYAL, LLC REGARDING CITY PARK AT NIBLEY MEADOWS**

WHEREAS, Nibley Meadows, hereinafter referred to as “the Development” has obtained approval for a Residential Planned Unit Development (“R-PUD”) overlay zone under Nibley City Code Title 19, Chapter 32 (“R-PUD Ordinance”); and

WHEREAS, the Development Agreement for Nibley Meadows (“Development Agreement”) provides that The City and Developer shall enter into a separate Park Development Agreement for improvement of an 4.5 acre City park space (“Park Space”); and

WHEREAS, the Parties intend to establish the specific terms, conditions, plans, phasing, and requirements that will govern the improvement of the Park Space.

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

1. The attached Park Development Agreement be approved
2. The Agreement shall not take place until the Developer and City have signed the attached Agreement and said Agreement has been properly recorded as required by Nibley City Code.
3. All ordinances, resolutions and polices of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving and law, order, resolution or ordinance or part thereof.

PASSED BY THE NIBLEY CITY COUNCIL THIS ____ DAY OF _____

Larry Jacobsen, Mayor

ATTEST:

Cheryl Bodily, City Recorder

NIBLEY CITY PARK DEVELOPMENT AGREEMENT

THIS PARK DEVELOPMENT AGREEMENT (“Agreement”), entered into this _____ day of _____, 20____, between 7 Point Royal, LLC, hereinafter referred to as “Developer” and Nibley City, here in after referred to as “City”, and

WHEREAS, Nibley Meadows, hereinafter referred to as “the Development” has obtained approval for a Residential Planned Unit Development (“R-PUD”) overlay zone under Nibley City Code Title 19, Chapter 32 (“R-PUD Ordinance”); and

WHEREAS, the Development Agreement for Nibley Meadows (“Development Agreement”) provides that The City and Developer shall enter into a separate Park Development Agreement for improvement of an 4.5 acre City park space (“Park Space”), as described in Exhibit A; and

WHEREAS, the Parties intend to establish the specific terms, conditions, plans, phasing, and requirements that will govern the improvement of the Park Space.

NOW, THEREFORE, to induce Nibley City to approve the proposed PARK DEVELOPMENT AGREEMENT, the Developer does hereby unconditionally promise and agree with Nibley City as follows:

1. The Development Agreement and this Agreement shall govern the development of the Park Space. To the extent there is a conflict between this Agreement and the Development Agreement regarding the Park Space or the development thereof, this Agreement shall govern.

2. Funding: Prior to issuance of building permits, the Developer shall pay Park Impact Fees as set forth in Nibley City’s consolidated fee schedule and as described below and in Exhibit C. The City shall design, develop, and construct the Park Space through some or all park impact fees generated from the Development and paid to the City, as described herein. At least fifty percent (50%) of park impact fees generated from the Development shall be used to fund the design, development, and construction of the City Park Space, as set forth below:

- a. The City shall provide for the Design process of the Park through up to \$80,000 of impact fees, which Design shall be completed within the upcoming fiscal year (July 1, 2023 -June 30, 2024), so long as a minimum of \$80,000 of Park Impact Fees have been paid by Developer in conjunction of building permits issued prior to July 1, 2023. If such fees have not been paid, the City may choose to cover any shortfall in advance of the issuance of building permits and payment of impact fees, subject to reimbursement from future Park Impact Fees.

- b. Developer shall not be entitled to interest earned on any impact fees held by the City.
- c. The use of park impact fee funding shall be limited to improvements directly related to the design, construction and improvement of the park, as described herein, including design and construction of infrastructure, landscaping, amenities, trails, and supportive parking, with the exception of the improvements described in this subsection (e). Developer acknowledges and agrees that park impact fees cannot and shall not be used to construct any non-park improvements, such as construction of any roadways, utilities, or other improvements to be constructed as part of the development. Nothing in this Agreement modifies or limits Developer's obligation to pay all other impact fees and other fees and costs required under Nibley City Code.
- d. Developer and the City agree that improvements directly related to the design, construction and improvement of the park space, with the exception of the improvements described in this subsection (e), are the responsibility of the City under this Agreement but will be funded with park impact fees generated from the Nibley Meadows development project. These improvements include any and all improvements contemplated or constructed inside the Park Space such as grading, landscaping, additional parking, lighting, irrigation, playgrounds, sports fields, bathrooms, pavilions, boardwalks, drinking fountains, lights, and any other improvement that the City deems appropriate beyond or in addition to the improvements required to be provided by the Developer.
- e. The Developer shall:
 - i. as part of the Phase 1 improvements, construct all road improvements, as approved on the final construction drawings for phase 1 of the subdivision which includes both sides of 3410 S along the entire frontage of the Park Space;
 - ii. as part of the Phase 1 improvements (but not later than the issuance of the 100th building permit within the development), stub sewer, water and power to the Park Space at Developer's expense;
 - iii. pay the City \$60,000 towards the cost of constructing a restroom facility at the Park Space prior to the issuance of the 200th building permit within the Development;
 - iv. build a private splash pad or equivalent amenity under the city code within the Development's common space prior to the issuance of the 200th building permit within the development or pay the city \$150,000 towards the construction of a city-owned splash pad in the Park Space with the \$150,000 inflated at a rate indexed to inflation based on construction costs from the date of final acceptance of the Phase 1 infrastructure by the city;
 - v. install 25 parking stalls and all trails and walkways within the Park Space per the layout in the approved Preliminary Plat or pay the city the equivalent cost

- of construction of the 25 parking stalls and trails prior to the issuance of the 100th building permit within the development;
- vi. The location of trails and parking shall be based upon the City-led park design with lineal footage of designed trails limited to the length approved on the Preliminary Plat with trails in excess of this being built at city expense.

3. Upon Developer receiving final plat approval of Phase 1 of the Development, Developer shall dedicate the 4.5+/- acres of Park Space to the City as consideration for this Agreement and the Development Agreement. Such dedication shall transfer fee title to the Park Space to the City, free, clear, and unencumbered, as described in Exhibit A. Developer shall hold harmless and indemnify the City for any injuries, damages, or losses arising out of Developer's and Developer's agents', contractors', and representatives' work, construction, development, and improvement of and on the Park Space.

4. Developer shall supply the City with water rights or shares for the Park as set forth in Nibley City Code Section 21.12.020, as determined by the Nibley City Engineer.

5. The Developer shall or project HOA will be charged with maintaining the shared retention basin on the park site. The Developer shall ensure that any stormwater facilities downstream of the park are sized to handle any stormwater flows generated from the Park Space.

6. This Agreement may be revised or amended only upon the approval of the Nibley City Council.

7. Developer shall comply with all applicable federal, state, county and City requirements, regulations and laws for each aspect of this Development, including payment of fees, provision of bonds and other guarantees, and compliance with design and construction standards. Nothing in this Agreement shall be deemed to relieve Developer from the obligation to comply with all such applicable laws, ordinances and requirements as now existing and as enacted and/or amended prior to construction. In the event of a conflict between this Agreement and any applicable federal, state, county, or city requirement, regulation, or law, the federal, state, county, or city requirement, regulation, or law shall prevail to the extent of such conflict.

8. The terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto mentioned and permitted successors and assigns including all parties who acquire title to any portion of the Development; provided, however, that this Agreement cannot be otherwise assigned, transferred or conveyed by either party, without the express, written consent of the other party.

9. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid for any reason, the parties consider and intend that this Agreement shall be deemed amended to the extent necessary to make it consistent with such decision and the balance of this Agreement shall remain in full force and affect.

10. Time is of the Essence. Time is of the essence to this Agreement and every right or responsibility shall be performed within the times specified.

11. Mutual Drafting. Each party has participated in negotiating and drafting this Agreement and therefore no provision of this Agreement shall be construed for or against either party based on which party drafted any particular portion of this Agreement.

12. Entire Agreement. This Agreement, and all Exhibits thereto, is the entire agreement between the Parties and may not be amended or modified except either as provided herein or by a subsequent written amendment signed by all parties.

13. No Third Parties. This Agreement, and all Exhibits thereto, is intended for the sole benefit of the named parties thereto. No third party, except for permitted successors and assigns, shall have any right to enforce any of the terms or obligations herein.

14. Recordation and Running with the Land. This Agreement shall be recorded in the chain of title for the Development. This Agreement shall be deemed to run with the land and bind all future owners of any part of the Development.

15. Attorney Fees. Both Parties shall pay for their own attorney fees and costs arising out of or connected in any way to the execution of this Agreement. Any Party that prevails in any legal proceeding, including court proceedings, arbitration, and administrative proceedings, to enforce this Agreement or adjudicate any issues under or in connection with this Agreement will be entitled to recover its reasonable attorney fees, costs, and expenses of such proceedings.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

NIBLEY CITY

DEVELOPER

By: JUSTIN MAUGHAN
Its: City Manager

By:
Its:

STATE OF UTAH)
 : ss
County of Cache)

On this ____ day of _____, 2023, personally appeared before me Justin Maughan, City Manager, the signer of the within instrument, who duly acknowledged to me that he executed the same as City Manager for Nibley City Corporation.

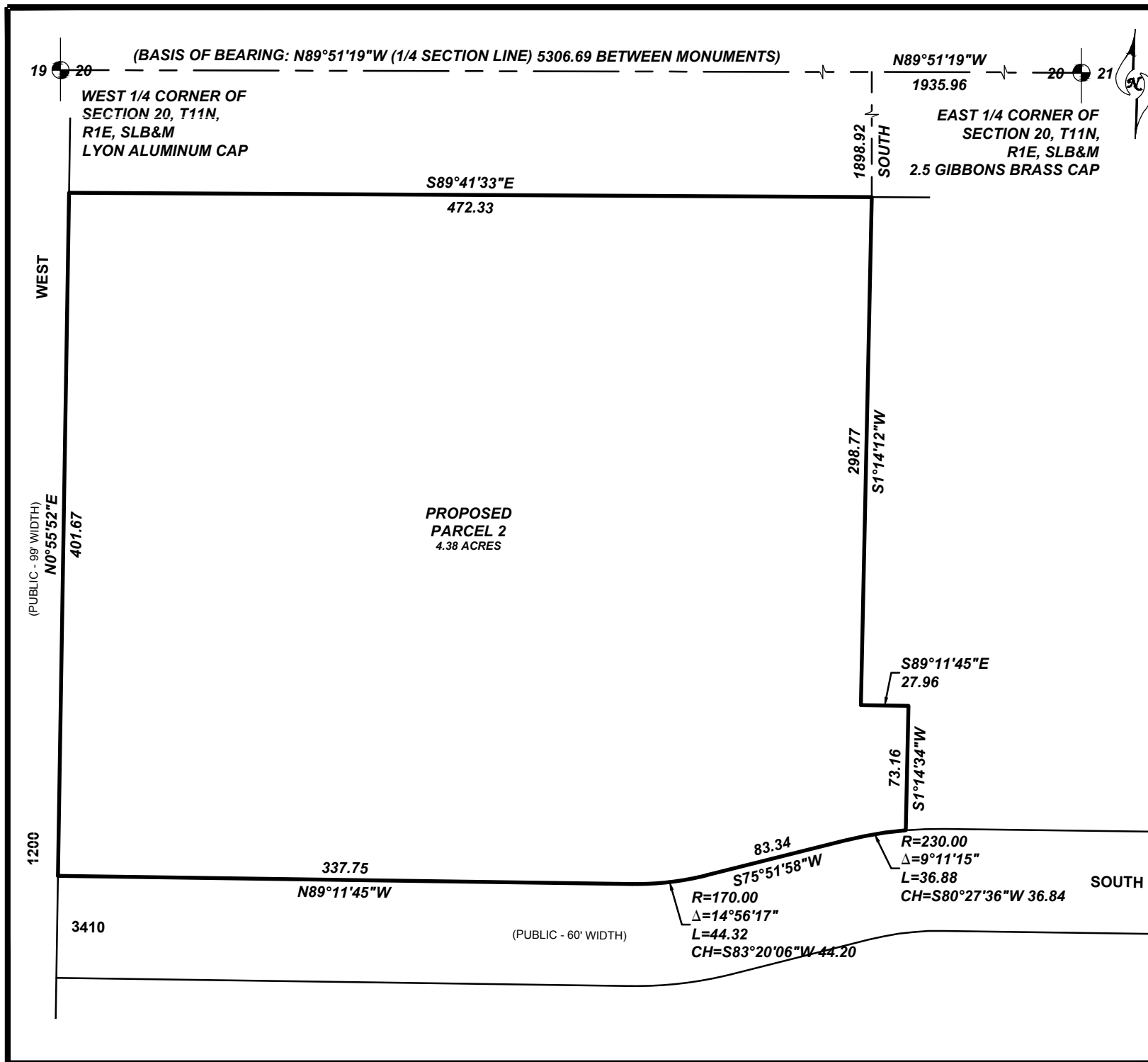
NOTARY PUBLIC

STATE OF UTAH)
 : ss
County of Cache)

On the ____ day of _____, 2023, personally appeared before me, _____, Developer, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

NOTARY PUBLIC

Exhibit A
Park Space Area Map and Legal Description



civilsolutionsgroupinc.



UTAH VALLEY | P: 801.874.1432
PROVIDENCE | P: 435.213.3762
SALT LAKE CITY | P: 801.216.3192
info@civilsolutionsgroup.net
www.civilsolutionsgroup.net

**NIBLEY MEADOWS PHASE 1
PARCEL 2 EXHIBIT**

LOCATION: SE1/4 OF SECTION 20, T11N, R1E, SLB&M
NIBLEY, UTAH

PREPARED FOR: NIBLEY CITY

SCALE:
NTS
DATE:
2-8-23

DRAWN BY:
L. CHUGG
PROJECT #:
19-368

SHEET 1 OF 1

LEGAL DESCRIPTION
PREPARED FOR
NIBLEY MEADOWS
NIBLEY, UTAH
(February 8, 2023)
Project No. 19-368

PARCEL 2

A portion of that Real Property described as Parcel No. 4 in Deed Book 2098 Page 582 of the Official Records of Cache County, more particularly described as follows:

Beginning at a point located N89°51'19"W along the 1/4 Section line 1,935.96 feet and South 1,898.92 feet from the East 1/4 Corner of Section 20, T11N, R1E, S.L.B. & M.; thence S1°14'12"W 298.77 feet; thence S89°11'45"E 27.96 feet; thence S1°14'34"W 73.16 feet; thence southwesterly along the arc of a 230.00 foot radius non-tangent curve (radius bears: S4°56'47"E) to the left 36.88 feet through a central angle of 9°11'15" (chord: S80°27'36"W 36.84 feet); thence S75°51'58"W 83.34 feet; thence along the arc of a 170.00 foot radius curve to the right 44.32 feet through a central angle of 14°56'17" (chord: S83°20'06"W 44.20 feet); thence N89°11'45"W 337.75 feet; thence N0°55'52"E 401.67 feet; thence S89°41'33"E 472.33 feet to the point of beginning.

Contains: 4.38+/- acres

Agenda Item #12

Description	Discussion and Consideration – Ordinance 22-19: Transfer of Development Rights (TDR) Ordinance and Zoning Several Parcels as a TDR Sending Overlay Zone or a TDR Receiving Overlay Zone (Third Reading)
Presenter	Levi Roberts, City Planner
Planning Commission Recommendation	Move to not approve Ordinance 22-19: Transfer of Development Rights (TDR) Ordinance and Zoning Several Parcels as a TDR Sending Overlay Zone or a TDR Receiving Overlay Zone
Reviewed By	Mayor, City Manager, City Planner, Planning Commission, City Attorney

Background

Between February-November 2022 People + Place, LLC worked with the City to Study and develop a Transfer of Development Rights Ordinance. This work was funded largely through a UDOT Technical Planning Assistance Grant. If adopted, The Transfer of Development Rights (TDR) Ordinance will provide a mechanism to preserve open space in appropriate areas and focus new population growth in areas with supportive infrastructure. The Study has been completed to inform the development of this ordinance, including case study research, community and stakeholder engagement and a market/tipping point analysis. Based upon community outreach, there is general support for developing a TDR program that facilitates the preservation of open space.

Two joint workshops with Planning Commission and City Council were held previously to inform each respective body of the ordinance process and receive feedback to inform the ordinance. The consultant has worked with City Staff to craft an ordinance with appropriate transfer ratios and designate sending and receiving zones for the TDR ordinance. A Draft Ordinance was provided by the consultant with input from Staff. The Draft was further modified with input from the Planning Commission.

The draft ordinance provides a framework for transferring development rights from 'sending areas' to 'receiving areas.' These areas will be defined on the zoning map as overlay areas.

Specifically, the ordinance includes the following sections:

1. Definitions- many elements of a TDR program are unique and require specific definitions that would apply to the program
2. TDR Sending Overlay Standards
 - a. Purposes of the Overlay, which includes preserving important open space and providing a mechanism to do so. Defining permitted uses within sending areas, which focus on preservation of agriculture and open land areas.
 - b. Standards for identification and size of sending areas
 - c. Application guidelines, including required information to accompany an application.
 - d. A standard process for officially 'severing' development rights
3. TDR Receiving Overlay Standards
 - a. Limits on density depending upon the underlying zone or situation within an eligible R-PUD area. For standard residential zones, the overall density may be increased by up to 50% with TDR. For R-PUD areas, they may be increased from 5 units/acre to 15 units/acre. This would also require a change to the R-PUD ordinance, which currently allows up to 10 units/acre.
 - b. Procedure for calculating allowed number of housing unit.
 - c. Application guidelines, including required information to accompany an application.
 - d. Guidelines regarding how zoning standards may be modified based upon the number of TDR credits applied to the development. In general, if TDR is applied to a project, minimum standards become more flexible to make development feasible within the density maximum guidelines noted above. These relaxed standards also become an incentive for
4. Standard forms for Deed of Severance/Conservation Easement, TDR Certificate, Deed of Transfer

In addition to the Draft TDR Ordinance, a Draft TDR overlay zones map is provided. The TDR overlay zones designate both sending and receiving areas. As noted above, sending areas are those areas from which theoretical development rights are transferred. 'Receiving areas' are areas that are eligible to receive additional development rights, including density if they transfer rights from a sending area.

Guiding principles for selecting originally recommended sending areas:

1. Sensitive/significant lands
 - a. Blacksmith Fork River Riparian Corridor
2. Hillside/flood prone areas
3. Productive agricultural lands
 - a. Large open agricultural lands between Nibley City and Hyrum City.
4. Scenic vistas

- a. Areas along Hwy 89/91 south of Nibley's current boundaries.
5. Some areas along Hwy 165
6. Unimproved parks/historic land
 - a. Regional Park, Morgan Farm

Guiding principles for selecting receiving areas:

1. Areas near supportive infrastructure
2. Areas planned for additional density (Town Center, R-PUD areas)

The original recommended map broadly applied the TDR overlay zones across undeveloped land within Nibley's Future Annexation Area which met the guiding principles. This approach intended to provide opportunities for the program to effectively work. The recommended map includes many areas outside of Nibley City municipal boundaries. It is important to note that these areas would only be able to be included in a TDR transfer if/when they annex to Nibley City.

With input from the Planning Commission, the draft overlay map was significantly changed to focus on directing growth to major transportation corridors and established R-PUD areas, removing several receiving areas in vacant parcels in the established part of Nibley City, and focusing preservation efforts to improving unimproved parks, trail corridors, and river corridor/bench areas, with less focus on preserving large agricultural areas. Specifically, the following changes were incorporated for consideration by the Planning Commission.

1. Except for planned park areas, with some buffer, unincorporated agricultural areas to the south of central Nibley have been removed from the sending areas map.
2. Most areas along Hwy 89/91 have been reassigned as receiving areas.
3. Areas on the East side of Hwy 165 south of 3200 S and north of 4000 S have been reassigned as sending areas.
4. Some areas along Hwy 165, including areas between 4000 S and 4400 S along Hwy 165 have been reassigned as receiving areas.
5. Some receiving areas in central Nibley have been removed from the receiving areas map. Primarily those in close proximity to major transportation corridors (1200 W, Hwy 89/91 and Hwy 165) remain.

In addition to these changes to the draft overlay map, several changes to the draft ordinance were incorporated based upon Planning Commission feedback, including the following:

1. Removing section 19.48.030(D)(4)(a) from the ordinance, which regulated the minimum number of TDR credits to bring to a project.

2. Modify code language that references additional TDR credits per acre for areas along the Blacksmith Fork River and replace with language that points to areas with public access (trails and parks). Increase the TDR credits per acre ratio to 5.
3. Add provision that requires dedication of public rights of way in sending areas if a Master-planned Street is affected.
4. Removal of the area east of Hwy 165 as an R-PUD-eligible area. This area was recommended as a sending area instead.

Two public hearings were held on this item with the Planning Commission, with several concerns expressed, including potential impacts of private property rights and prospective impacts of receiving areas, related to higher density development, among other concerns. During the December 15 Public Hearing regarding this item, the Hyrum City Engineer/Zoning Administrator expressed concerns that the proposed TDR map may be in conflict with the ongoing agreement that Nibley and Hyrum have been working on to preserve the 4400 South corridor as an industrial and agricultural corridor. The Planning Commission directed Staff to follow up with Hyrum representatives to resolve this concern and ensure that we are not violating this agreement (although it is not formal or finalized yet).

Mayor Jacobsen and City Planner, Levi Roberts, met with Matt Holmes, Hyrum City Engineer/Zoning Administrator and Hyrum Mayor Stephanie Miller. The conclusion of this discussion was that they were comfortable with the map, so long as residential uses were setback at least 500 feet from the roadway, as they felt residential uses were incompatible with the vision of the corridor and present conflicts with heavy truck traffic anticipated for the planned corridor.

Following up on this discussion, Staff drafted the following section 19.48.030(C)(7) which clarifies the regulation of commercial/residential mixed-use developments within the TDR receiving overlay zones and aims to address concerns expressed by Hyrum City representatives:

Commercial mixed use developments within a TDR receiving overlay zone and a Commercial or Neighborhood Commercial zone must include a minimum of 50% of land for commercial uses. This may include buildings with commercial uses on the ground floor or horizontally separated uses. The portion of land that is apportioned as a commercial use shall include the ground floor area of commercial uses and supportive uses, including parking and landscaping. The residential density shall be calculated based upon the area that is dedicated to residential uses, including any mixed-use buildings. Any residential uses along 4400 South or Highway 89/91 shall be setback at least 500 feet from each right-of-way.

As noted, in addition to the requested change to buffer residential uses from 4400 South, Staff recommended this buffer for Highway 89/91, as well. This would require

any residential units to be setback, while commercial uses could face the roadway. This is meant to buffer residential uses from the negative impacts of noise and emissions associated with these roadways.

In addition to this change, it was brought to Staff's attention that there were some areas outside of Nibley City's Future Annexation Area, including some slivers of land along the Blacksmith Fork River that currently reside in Millville. Staff removed these areas from the Draft TDR Overlay Map.

Ultimately, the Planning Commission voted 3-0 to not approve the TDR ordinance. Although the goals of the TDR ordinance are in line with City goals and aspirations, one Commissioner cited concerns with potential risks and unknown implications of the ordinance, among other issues.

Additional Background since 2-9-23:

Several property owners objected to be included in a TDR overlay zone. Staff has included a map of properties for which the owners objected to be included.

ORDINANCE 22-19

TRANSFER OF DEVELOPMENT RIGHTS (TDR) ORDINANCE AND ZONING SEVERAL PARCELS AS A TDR SENDING OVERLAY ZONE OR A TDR RECEIVING OVERLAY ZONE

WHEREAS, Nibley City regulates land use within Nibley City boundaries; and

WHEREAS, Utah Code 10-9a-509.7 enables cities to adopt a transferable development rights ordinance and applicable sending and receiving overlay zones; and

WHEREAS, The adopted Nibley City Parks, Trails, Recreation and Open Space Master Plan recommends adopting a Transfer of Development Rights Ordinance as a means of preserving open space and funding potential park and trail improvements; and

WHEREAS, Nibley City is in support of Preserve open space, scenic views, agricultural, riparian and critical/sensitive lands and maintaining the rural heritage of the City; and

WHEREAS, a TDR Ordinance will provide a means for protecting and enhancing private property rights by enabling the transfer of potential development rights and establish a procedure enabling Nibley City and its landowners to voluntarily sever development rights from a sending property.

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

1. The attached Nibley City Code 19.48 be adopted and amendments to Nibley City Code 19.08 and 19.32 be adopted.
2. All ordinances, resolutions, and policies of the City, or parts thereof, inconsistent herewith, are hereby repealed, but only to the extent of such inconsistency. This repealer shall not be construed as reviving any law, order, resolution, or ordinance, or part thereof.
3. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Nibley City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications, and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.
4. This ordinance shall become effective upon posting as required by law.

PASSED BY THE NIBLEY CITY COUNCIL THIS _____ DAY OF _____, 2023.

Larry Jacobsen, Mayor

ATTEST: _____
Cheryl Bodily, City Recorder

19.48 Transfer of Development Rights

19.48.010 Definitions

Agritourism: tourist related activities that support agriculture such as tours, events, farm to table restaurants, fruit and vegetable stands, etc.

Conservation Easement: an easement, covenant, restriction, or condition in a deed, will, or other instrument signed by or on behalf of the record owner of the underlying real property for the purpose of preserving and maintaining land or water areas predominantly in a natural, scenic, or open condition, or for recreational, agricultural, cultural, wildlife habitat or other use or condition consistent with the protection of open land.

Constrained and Sensitive Land: Land which is generally unbuildable without engineered ground modifications, or which contains features including, but not limited to Federal, State, or municipally designated wetlands, water bodies, floodplains, slopes greater than 20%, faults, canals, and other geologically or environmentally sensitive features that require mitigation, special insurance, or permits from government authorities to allow development.

Deed of Severance: an instrument executed by a property owner and Nibley City by which theoretical developments rights are severed from a Sending Property. A Deed of Severance may be combined with a Conservation Easement. A Deed of Severance shall be in substantially the same form as shown in Exhibit____.

Deed of Transfer: by the owner of a theoretical development right transferring development rights from a sending area to a receiving property. A Deed of Transfer shall be in substantially the same form as shown in Exhibit____.

Determination of Eligibility: a process performed by the City Planner or designee that determines the number of transferrable development rights possible to be eligible for transfer from a Sending Property.

Development Rights: the right of the owner of a parcel of land, under land development regulations in Part 3 of this Title as of date ordinance becomes effective or upon annexation, whichever is later, to place that parcel and the structures thereon to a particular use or to develop that land and the structures thereon to a particular area, density, bulk, or height.

Net Developable Land: Net Developable land shall include the total area of the proposed development minus land that is required by Nibley City Ordinance to be dedicated to the City, including, but not limited to:

1. Public access rights-of-way, including roadways and sidewalks
2. Land required to be dedicated along waterways
3. Preservation lands with infrastructure installed to City standards by the developer as part of the development process (public and private parks, trails, etc.)
4. Constrained and Sensitive Land, as defined herein
5. Easements, lands dedicated to the City for preservation space but without public rights of access, and other utility or general rights-of-way without public access.
6. Constrained and Sensitive Land, land dedicated along waterways, and other natural landscape or open space land may be considered net developable land when calculating for density if such land can be enhanced with trails, public access, picnic areas, park amenities, or other improvements.

Receiving Area: an overlay zoning district established by Nibley City designated as an area in which purchased development rights may be used.

Receiving Property: a lot or parcel within a receiving area and within which development rights are increased pursuant to a transfer of development rights affixed to the property.

Sending Area: one or more areas identified by this ordinance and rezoned with the Transfer of Development Rights Sending Overlay Zone as an area from which development rights are authorized to be severed and transferred to a receiving area.

Sending Property: a lot or parcel within a sending area from which development rights are authorized to be severed.

Severance of Development Rights: the process by which development rights from a sending property are severed pursuant to this ordinance.

Transfer of Development Rights: the process by which development rights from a sending property are affixed to one or more receiving properties.

Transferable Development Rights (TDRs): all or that portion of development rights that are transferred or are transferable.

Transfer of Development Rights Certificate or TDR Certificate: a certificate issued by the Nibley City Planner or designee that indicates a number of Transferable Development Rights that have been authorized for a Sending Property, which may be transferred to a Receiving Property.

19.48.020 Transfer of Development Rights Sending Overlay

The Transfer of Development Rights Sending Overlay Zone is intended to preserve areas in Nibley City that have an agricultural or natural open space use. This intent is accomplished through a voluntary program called Transfer of Development Rights (TDR). This TDR program creates new theoretical development rights and allows for the transfer of those development rights in accordance with provisions contained in this Overlay zone. These provisions are intended to shift development potential and/or rights to areas that are more appropriate for residential development.

- A. The purposes of this Transfer of Development Rights Program, or TDR Program, include, but are not limited to:
 1. Protect and enhance private property rights by enabling the transfer of potential development rights.
 2. Maintain the rural heritage of Nibley City.
 3. Promote the public health, safety, and general welfare of Nibley City by establishing procedures, methods, and standards for the transfer of development rights.
 4. Establish a procedure enabling Nibley City and its landowners to voluntarily sever development rights from a sending property.
 5. Establish procedures for the formal transferring of development rights from a sending property, tracking those, and then to establish the use of those transferred development rights on a receiving property.
 6. Establish certain incentives for attaching development rights to receiving properties.
 7. Preserve open space, scenic views, agricultural, riparian and critical/sensitive lands.
 8. Protect lands, resources and structures of aesthetic, architectural, recreational, and historic significance.
 9. Assist in shaping the character and direction of the development of Nibley City.

B. Permitted Uses within Sending Areas after a Deed of Severance and conservation easement is recorded. Uses not listed are not allowed:

1. Agricultural and horticultural uses, including grazing of animals in compliance with NCC 19.34 Animal Land Use Regulations, raising crops, wholesale nurseries, and associated buildings that are specifically needed to support active, viable, and permitted agricultural and horticultural operations. Wholesale nurseries must obtain an operating permit and business license from the City and must comply with all fencing and maintenance requirements of this ordinance.
2. Public rights of way and easements, including quasi-public utility easements.
3. Commercial horse riding, training and boarding stables.
4. Silviculture, in keeping with established standards for selective harvesting and sustained yield forestry
5. One (1) single-family dwelling and one Accessory Dwelling Unit on parcels with 20 or more acres.
6. Municipal facilities required for local service and/or recreation needs.
7. Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the conserved land.
8. The creation and Transfer of Development Rights in accordance with this chapter
9. Restoration, maintenance, enhancement of native vegetation.
10. Publicly accessible recreational lands and facilities including trails, parks and natural lands.
11. Agritourism
12. Conservation of open land in its natural state, e.g., meadows, tree stands, wetlands, forestland.

C. Conditional uses within Sending Areas:

1. Home Occupations as per the definition in 19.04 for existing and permitted residences.
2. Seasonal fruit, vegetable, tree, and hay retail sales in structures of less than 500 square feet when at least some of the products being sold are raised on the premises. Subject to having access, parking, and any utility needs approved by the City.

D. Sending Areas Identified.

1. Sending Areas are property that have been zoned with the Transfer of Development Rights Sending Overlay Zone, which overlay zone confers special rights and obligations as set forth in this chapter in addition to the underlying zoning regulations. Once a Deed of Severance and conservation easement is recorded, no uses other those expressly permitted herein are permitted, regardless of the underlying zoning. The Transfer of Development Rights Sending Overlay Zone may be applied to agricultural lands and open spaces as shown on the Official Zoning Map of Nibley City. For agricultural parcels, Sending Areas shall be no smaller than ten (10) acres. For planned City parks or areas of historical significance, Sending Areas shall be no smaller than five (5) acres. For areas identified as sending areas along the Blacksmith Fork River, an undisturbed area at least 150' in depth from the high-water mark and at least 200' in length or a trail easement at least 200' in length shall be eligible as a Sending Area, as long as it is located parallel to the River and covers the length of the subject property from property line to property line. Connecting parcels smaller than the minimum may be considered on a case by case basis,

Commented [LR1]: Should this be deleted?

by the City Council where such connections provide a continuous, usable trail segment.

Commented [LR2]: Is this too vague? Should this also apply to other parcels?

2. A property owner may apply to have their property be designated as a Sending Area and rezoned to receive the Transfer of Development Rights Sending Overlay Zone through the City's rezoning process set forth in 19.02.
3. Where a property is partially contained within a Sending Area, only the portion of the property contained within the Sending Area may be used for the purposes of determining transferable development rights (TDRs).
4. A Deed of Severance and a Conservation Easement shall be recorded on the Sending Area property from which potential development rights were severed, and the property can thereafter only be used as outlined in this section. The conservation easement requires the formal commitment from a non-profit, Land Trust, or the City for long term management of the sending property. All applicable fees, including stewardship fees, for the transfer must be paid prior to recording the Deed of Severance and Conservation Easement.
5. Any landowner within the Transfer of Development Rights Sending Overlay Zone may apply to have potential development rights calculated and created for their property based on formulas contained herein. The entire property shall be submitted for calculation of potential development rights at the time of application with the City.
6. All Sending Areas and property within the Transfer of Development Rights Sending Overlay Zone are eligible for a determination of potential development rights, provided that properties owned by the State or Federal agencies and existing conservation subdivisions shall not be eligible for TDR credits or severance of potential development rights.

E. Determination of Transferable Development Rights.

1. The City Planner or designee shall establish and maintain a system for monitoring the determination, severance, ownership, assignment, and transfer of development rights.
2. The record owner of property within the Transfer of Development Rights Sending Overlay Zone shall file a Determination of Eligibility Application, with an associated fee, to determine the number of development rights available to be severed from a sending property shall be filed with the City.
3. The following information shall accompany the application:
 - a. A map that includes the following:
 1. The boundary map of the subject property.
 2. A legal description including the acreage of the property.
 3. Current zoning.
 - b. Use of the property.
 - c. Title policy or title documentation.
 - d. Existing water rights needed to continue the current use on the property. Total water rights available to the property.
 - e. Applicable fees.
 - f. For agricultural parcels, commitment to farming by the owner or a lease for 10 years
 - g. Annexation status, if applicable
 - h. Slope and floodplain mapping

4. Nibley City shall determine the number of development rights using the following formula, and rounded to the nearest whole number:
 - a. $TDRs = A \times B$ for agricultural property or $TDR = A \times OSA$ for open space properties
 - b. Where TDR means Transferrable Development Rights, A means the total area (acres) of the property, B means the allowable potential development rights on an agricultural property, OSA means the allowable potential development rights on an open space property.
 - c. For parcels without public access including agricultural parcels, the per acre potential development units to transfer shall be 3.
 - d. For parcels with public access, including trails and planned parks, the per acre potential development units to transfer shall be 5. If only a trail easement is dedicated, it shall be eligible for a minimum of 1 credit. All parcels participating in the TDR program which include trail(s) identified in the Nibley City Trails Master Plan shall provide a minimum 20' wide public trail easement(s) from property line to property line. Unimproved park areas identified in the Nibley City Parks Master Plan shall be eligible for the 5 credit per acre transfer ratio. Proposed park, trail or other publicly accessible open space areas not identified in the Parks Master Plan must be approved by Nibley City Council in order to receive the 5 credit per acre transfer ratio.

F. Severance of Development Rights.

1. Any proposed severance of development rights may be initiated only upon application (Eligibility Application) to the City by the record owners of the sending properties. Once an Eligibility Application/determination is completed, a TDR Certificate shall be issued. The issuance of a TDR Certificate alone does not constitute a severance of development rights, and no development rights can be transferred solely on the basis of a TDR Certificate.
2. Nibley City may not require property owners to sever development rights as a condition of the development of any property.
3. A severance of development rights occurs after the owner of the sending property receives a signed TDR Certificate with the number of allotted TDRs from the City and records a Deed of Severance. The Deed of Severance must transfer development rights to one or more parties, which may include the grantor, and may, but is not required to, affix development rights to one or more receiving properties.
4. The Deed of Severance must be executed by the property owners of the development rights being severed, and by any lien holders of such property.
5. No Deed of Severance may be recorded under this ordinance unless the Deed of Severance contains a copy of the TDR Certificate signed by the City indicating the number of TDRs being severed.
6. The Deed of Severance must contain a Conservation Easement, both of which shall run with the land and must assure that the prohibitions against the use and development of the sending property will bind the landowner and every successor in interest to the landowner. Such conservation easements shall include a legally binding commitment letter from a non-profit, local Land Trust, or the City.
7. Any land affected by streets identified in the Nibley City Transportation Master Plan shall be dedicated as public rights of way, with the proper width and dimensions as part of the recording of the Deed of Severance for all sending zone properties.
8. The Deed of Severance and Conservation Easement shall be recorded in the office of the

Cache County Recorder. Upon recordation of the Deed of Severance:

- a. The TDRs are severed from the sending property.
 - b. The conservation easement shall be in compliance with the permitted uses in the Transfer of Development Rights Sending Overlay.
9. The Deed of Severance shall be in a form substantially similar to the Deed of Severance attached as an exhibit to this ordinance and must otherwise comply with the requirements of this ordinance. Any changes to the deed attached as an exhibit in a particular case shall be in a form that is approved by the Nibley City Attorney.

19.48.030 Transfer of Development Rights Receiving Overlay

The creation of the Transfer of Development Rights Receiving Overlay Zone and designation of Receiving Properties is intended to preserve the areas in Nibley to retain its rural heritage by designating areas that could receive density that is transferred from a Sending area.

This TDR program creates development rights and allows for the transfer of development rights in accordance with provisions contained in the Overlay. These provisions are intended to shift existing development potential or rights to areas that are more appropriate for residential development.

- A. Permitted Uses in Receiving Areas are limited to those uses which are permitted in the underlying zoning districts or as modified in below.
- B. Permitted Uses that include written additional standards – such standards shall still apply.
- C. Receiving Areas Identified.
 1. Receiving areas shall be designated on the official Zoning Map of Nibley City and shall function as overlay zones, such that all the provisions of the underlying zone shall apply, unless altered by the provisions of the overlay.
 2. Where a property is partially contained within a Receiving Area, only the portion of the property contained within the Receiving Area may be used for the purposes of applying transferable development rights (TDRs).
 3. A property owner may apply to have their property be designated as a Receiving Area and rezoned to receive the Transfer of Development Rights Receiving Overlay Zone through the City's rezoning process set forth in 19.02.
 4. The City Council may designate additional areas as a Receiving Area through the City's rezoning process. The Zoning Map should be updated upon designation. For future receiving area designations, the Planning Commission and City Council, in accordance with City Code, shall consider the ability of the property, utilities, nearby roadway networks, transportation system capacities and options, and other land use characteristics to accommodate additional density on the property.
 5. A receiving property that brings TDR credits to their property may only use the development rights permitted in accordance with the existing zoning regulations applicable to the receiving property and as shown in the table below:

Base Zoning	Base Density	Receiving Area Allowable Density Increase
R-1, R-1A, R-2, R-2A Zones	As per zone	Up to 50% increase over the existing zone requirements
R-PUD eligible areas	5 units per net	Up to 15 units per net developable acre

	developable acre	
R-M eligible areas	10 units per net developable acre	Up to 20 units per net developable acre
Residential/Commercial mixed use projects within C or C-N zones	As per existing zone	Up to 15 units per net developable acre

Commented [LR3]: Change R-M base density

6. Procedure for Calculating Allowed Number of Housing Units: The Allowed Number of Units including the density bonus for transferrable development rights shall be determined as follows. The developer shall follow the process outlined below to determine allowable number of units of the proposed subdivision and use these properties in developing the subdivision plats. All calculations and measurements shall be clearly documented in order and following the process outlined below and submitted with the preliminary plat application. All calculations will be based on the parcel's current zone at the time of application and the associated Lot Standards.

- a. Provide to the City the total area contained within the subdivision plat.
- b. Provide to the City the total area being dedicated to rights-of-way.
- c. Provide to the City the total acres of Constrained and Sensitive Land.
- d. Provide the City the total Net Developable Land area as defined within this section.
- e. State the area of proposed Open Space Land.
- f. Calculate Open Space Ratio.
- g. Calculate the Base Number of Lots per zone:
 - 1) Base Number of Lots R-1 = Net Developable Land / 1 acre
 - 2) Base Number of Lots R-1A = Net Developable Land / .75 acre
 - 3) Base Number of Lots R-2 = Net Developable Land / 0.5 acre
 - 4) Base Number of Lots R-2A = Net Developable Land / 0.32 acre
 - 5) Base Number of Lots R-PUD eligible areas = Net Developable Land / 0.2 acre
 - 6) Base Number of Lots R-M eligible areas = Net Developable Land / 0.1 acre
- h. Determine density bonus based upon the following: number of TDRs to be transferred to the project / Base number of Lots = Bonus Density multiplier
- i. Total allowed lots = Base number of lots + Base number of lots multiplied by the Bonus Density multiplier with the limits noted above.

- D. 7. Commercial mixed use developments within a TDR receiving overlay zone and a Commercial or Neighborhood Commercial zone must include a minimum of 50% of land for commercial uses. The 50% use may include the entirety of the ground floor area of buildings with commercial uses on the ground floor or horizontally separated uses where commercial uses occupy an entire. For buildings with partial commercial uses on a floor or vertically separated uses, only the ground floor area of the portion dedicated to commercial uses may be counted. The portion of land that is apportioned as a commercial use shall include the ground floor area of commercial uses, as described above, and supportive uses, including parking and landscaping. Parking for a mixed-use building that is required for residential uses shall not be included as part of the land apportioned as commercial use. The residential density shall be calculated based upon the area that is dedicated to residential

uses, including any mixed-use buildings. Any residential uses along 4400 South or Highway 89/91 shall be setback at least 500 feet from each right-of-way. Properties designated as receiving areas and with proof of transferred development credits, as shown in City and County records, shall be vested in the density of the underlying zone plus the additional development credits up to the limits shown in "e" above. Properties designated as receiving areas that are within R-PUD or R-M eligible areas shall be vested in the density of the R-PUD or R-M zoning designation plus additional development credits up to the limits shown in "e" above. Transfer of Development Rights to Receiving Properties shall comply with the following:

1. Any proposed transfer of development rights may be initiated only upon completing an Eligibility application by the owners of the sending properties, holders of a TDR Certificate, or owners of the receiving properties.
2. Nibley City may not require property owners to transfer or receive a transfer of development rights as a condition of the development of any property, however no increases in density beyond what the existing zone allows shall be given without proof of transferrable development credits from a sending property.
3. The record owner of receiving property within the Transfer of Development Rights Receiving Overlay Zone shall file an application for a determination of eligibility to determine the number of transferrable residential development rights available to be transferred and affixed to one or more receiving properties in compliance with this ordinance. Such application shall include:
 - a. A completed determination of eligibility application and TDR Certificate from the sending property.
 - b. A tax map, plat or site plan outlining the boundaries of the property for each lot, tract or parcel as described in the deed.
 - c. The existing zoning of the property.
 - d. A title policy or other title documentation for the receiving property including a legal description of the receiving property.
 - e. A copy of a survey plat of the proposed receiving parcel prepared by a surveyor licensed in the State of Utah.
 - f. Water shares or rights necessary to support the new project as provided in NCC 21.12.020.
 - g. A statement of the number of residential development rights proposed to be transferred and affixed as residential development rights to one or more receiving properties, and calculations upon which the number is based.
 - h. All applicable fees.
 - i. A signed conservation easement agreement covering the sending property with a certified Land Trust, non-profit organization or Nibley City
 - j. Any additional information required by Nibley City, shown in the application, as necessary to determine the number of residential development rights that qualify for transfer.
4. The City shall provide a written statement of the maximum number of TDRs available to be transferred and affixed to one or more receiving properties.
5. A transfer of development rights occurs when the owner of the development rights records a Deed of Transfer against the receiving property in the land records of Cache County.
6. The Deed of Transfer shall be executed by the sending area property owners of the

development rights being transferred, and any lien holders of such property owners, and shall identify the development rights being severed, and the sending properties and/or the receiving properties, as applicable.

7. No Deed of Transfer may be recorded among the land records of Cache County unless the Deed of Transfer contains a copy of the signed TDR Certificate by the City Planner indicating the number of residential development rights being transferred and/or affixed to one or more receiving properties.
8. Upon recordation of the Deed of Transfer, the transferable development rights are conveyed to one or more parties and/or are affixed to one or more receiving properties stated in the Deed of Transfer.
9. The Deed of Transfer shall be in a form substantially similar to the Deed of Transfer attached as exhibit "C" to this ordinance and shall otherwise comply with the requirements of this ordinance and any changes to the deed attached as an exhibit in a particular case shall be in a form that is approved by the Nibley City Attorney.
10. Any transfer of development rights to a receiving property pursuant to this ordinance only authorizes an increase in maximum residential density over the base density as per the table in "d" above.
11. The existing zoning district regulations may be reduced/modified in terms of the following table:

	R-M Eligible Areas	R-PUD Eligible Areas	R-1	R-1A	R-2	R-2A
Minimum lot area ¹ (Single-family) ²	4,500 sq. ft.	4,500 sq. ft.	14,000 sq. ft.	12,000 sq. ft.	10,000 sq. ft.	6,000 sq. ft.
Minimum lot width ³	50'	50'	100'	80'	70'	65'
Minimum front yard setback (principal use) ⁴	7'	7'	20'		12'	
Minimum garage front setback ⁵	20'	20'	25'		22'	
Minimum side yard, interior setback	5'		10'		8'	
Minimum side yard, street setback	15'		20'		15'	
Minimum rear	10'		20'		15'	

¹ Lot bonus increase is only granted a maximum per table in 19.48.030 C 5 and it is expected that each development will have a variety of lot sizes and not all lots will be the minimum size.

² Two-family housing is permitted per Nibley City Code 19.20. Minimum lot size per two-family home is 9,000 sq. ft or minimum area per zone in TDR ordinance, whichever is greater.

³ Lot width is measured at the front yard setback line.

⁴ The building home setback includes the front of the home, living spaces, and porches, but not garages.

⁵ The garage is intended to be setback further than the home.

yard setback ⁶			
Parking	10% parking minimum reduction	10% parking minimum reduction	Not applicable
Unit Types & Unit Split	Not applicable	A minimum of 20% percent of the units must be single-family detached. Remaining units may be flexible attached and/or multi-family units	
Minimum project size	Not applicable	20 acres	

12. Developments in R-PUD eligible areas – housing types may include flexible attached units with building lengths no greater than 150'. Projects with bonified TDR credits, shall, when the application meets all City standards, be approved after appropriate administrative processing for a subdivision or conditional use.
13. Proposals for use of TDR credits within the R-PUD eligible areas as currently shown in NCC 19.32.030, shall become administrative and not require the rezone process in order to apply TDR credits to the project in order to allow for density which is greater than 50% greater than the underlying residential zoning designation. R-PUD projects shall follow the development standards and approval process of NCC 19.32, except as provided in this chapter.

⁶ Minimum alley or rear loaded setbacks are 5' if garage is located on the rear and is accessed from the alley.

When Recorded, return to:
Nibley City
Attn: City Planner
455 West 3200 South
Nibley, UT 84660

Affected Parcel No(s). _____

Deed of Severance and Conservation Easement

This Deed of Severance and Conservation Easement ("Deed") is made this _____, 20__, by and between _____ ("Grantor") and Nibley City, a Utah municipal corporation ("Holder").

RECITALS

WHEREAS Grantor is the sole owner in fee simple of certain real property, which is more particularly described in Exhibit A, attached hereto and incorporated by this reference ("Property");

WHEREAS Grantor desires to sever the development rights from the Property, which rights may be transferred to other receiving property within Nibley City pursuant to Chapter 19.48 of the Nibley Municipal Code TDR Program;

WHEREAS Grantor desires to convey and dedicate a conservation easement created pursuant to Utah Code Ann. §57-18-1 *et. seq.* on the Property to Holder; and

WHEREAS Holder desires to accept the dedication of conservation easement to further the stated goals of the TDR Program;

NOW, THEREFORE, Grantor and Holder, for and in consideration of the foregoing do hereby agree as follows:

Severance of Transferable Development Rights

The development rights associated with the Property are hereby severed and converted to Transferable Development Rights (TDRs). The TDRs severed from the Property are eligible to transfer to other places within Nibley City consistent with the TDR Program and are evidenced by that certain Certificate of Transferable Development Rights No. _____. Further development of the Property is prohibited except as in accordance with the TDR Program.

Conservation Easement

In consideration of the TDRs granted and the severance of the development rights from the Property, Grantor does hereby grant and convey, pursuant to and in accordance with Utah Code Ann. § 57-18-1 *et. seq.*, in perpetuity, to Holder, its assigns and successors in interest, a conservation easement in said real property of the Grantor of the nature and character and to the extent hereinafter expressed, to be and to constitute a servitude upon said real property of the Grantor, which estate, interest, easement and servitude will result from the covenants and restrictions set out below and hereby imposed upon the use of said property of said Grantor, and to that end and for the purpose of accomplishing the intent of the parties hereto, said Grantor covenants on behalf of itself, its heirs, successors and assigns, with Holder and its assigns to do and refrain from doing, severally and collectively, upon the Grantor's said property, the various acts hereinafter mentioned. Grantor commits by this easement to _____ use for a period of at least ten years via a lease or continued ownership. A non-profit organization, land trust, or the City hereby

commits to long term management of the Property in accordance with the Nibley City TDR Program and the rights, limitations, and restrictions set forth in this Deed. Grantor and/or developer has provided evidence of commitment by said entity and payment of any associated fees. The managing entity is:

Name:

Entity Type:

Physical Address:

Signature of Managing Entity: _____

Name and Title of Signer: _____

The restrictions hereby imposed upon the use of said property of the Grantor, and the acts which said Grantor so covenants to do and refrain from doing upon its said property in connection therewith are and shall be as follows:

1. The easement property herein described shall be kept in a manner consistent with the TDR Program.
2. Except as allowed by the TDR Program, there shall be on or in the easement property no fillings, excavating, removal of topsoil, sand, gravel, rock, minerals, or other materials nor any building of roads or change in the topography of the land in any manner, other than that caused by the forces of nature, or as reserved hereafter.
3. Herbicides and pesticides can be sprayed, when it is necessary for the raising of crops. Fencing will be allowed where necessary for farming operations or confining livestock.
4. No power lines with voltage in excess of 12kV may be erected, nor any interest in the easement property shall be granted for this purpose. The Grantor reserves the right and easement on the real property to maintain and repair existing telephone, electric, water wells, or other utility lines or mains needed to provide for the needs of the Grantor, its successors or assigns. The area needed to repair said facility shall be the minimum necessary to accomplish the task as agreed upon in writing by the Grantor and Grantee. Upon completion, the area shall be restored to its previous state or as near as practical.
5. The land shall at all times be kept free of garbage, trash, and inoperable machinery; and no other unsightly material shall be allowed to accumulate or be stored thereon.
6. Each and every other activity or construction which might reasonably endanger the natural, agricultural, or scenic state of the easement property is forbidden.
7. Nibley City reserves the right to periodically inspect said property for violations of the easement property, and if upon sixty (60) days advance written notice the Grantor has not eliminated said violations, Nibley City may remove or eliminate, at the expense of the landowner, any violation by Grantor of the easement. A Nibley City authorized representative may enter upon said lands for the purpose of inspection. Said easement is not a public easement.
8. Nibley City reserves the right to post or clearly mark the boundaries of said easement.

The conservation easement granted hereunder and the covenants heretofore made are subject to the following rights of the Grantor which are expressly reserved hereunder.

1. Except as expressly limited herein, the Grantor reserves for itself, its heirs, successors and assigns, all rights as owner of the easement property, including the right to use the easement property for all ownership purposes not inconsistent with this easement or the TDR Program,

including agricultural uses or other uses allowed by the TDR Program.

2. The right to build structures for agricultural use and occupancy subject to following applicable rules of the TDR Program, building codes, and setback regulations.
3. The lands of the Grantor, herein above referred to and to which the provisions of this instrument apply, are situated in Nibley City, Cache County of Utah, the State of Utah, and are more particularly described as follows:
 - a. See Attached "Exhibit A: Property Description".

TO HAVE AND TO HOLD unto Nibley City and its assigns forever. The covenants agreed to and the restrictions imposed, as aforesaid, shall be binding upon the grantor, its heirs, successors, and assigns, and each of them, and shall constitute a servitude upon the above described land.

IN WITNESS WHEREOF, the Grantor has hereunto set hand on the day and year first above written,
Signed and acknowledged in the presence of the notary public below:

Printed Name of Grantor

Signature of Grantor

Date

CACHE COUNTY, STATE OF UTAH

Before me, a notary public in and/or said county and state, personally appeared the above-named Grantor, who acknowledged that he/she did sign the forgoing instrument and that the same is his/her free act and deed whereof I hereunto set my hand and official seal this day _____, _____.

Notary Public

EXHIBIT A: PROPERTY LEGAL DESCRIPTION

TRANSFERABLE DEVELOPMENT RIGHTS CERTIFICATE

Certificate of Transferable Development Rights

TDR Certificate Number: #

This document certifies that:

1. Owners of real property located in Nibley, Utah, have filed a Determination of Eligibility Application with the Nibley City Community Development Department to determine whether the property is eligible for the creation of Transferable Development Rights.
2. The Nibley City Planner has determined that the property is eligible for the creation of Transferable Development Rights in accordance with Chapter 19.48 of the Nibley City Municipal Code.
3. The Nibley City Planner has determined the number of Transferable Development Rights that the property is eligible for in accordance with Chapter 19.48 of the Nibley City Municipal Code.
4. The owners of the property have signed a Deed of Severance and a Conservation Easement or trail easement has been established with _____.
5. This Certificate represents the creation of Transferable Development Rights that will become valid and enforceable in accordance with Chapter 19.48 of the Nibley City Municipal Code upon the lawful and proper recordation of the Deed of Severance and Conservation Easement.
6. The following number of Transferable Development Rights are created and severed from the property identified by the Parcel ID Number below and further described by the attached legal description.
7. The Transferable Development Rights represented by this Certificate are eligible to be transferred to Receiving Areas in Nibley City in accordance with Chapter 19.48 of the Nibley Municipal Code.

Transferable Development Rights granted: _____

Property from which Transferable Development Rights originated (Cache County Parcel ID Number):

Signature of City Planner

Date

Property Legal Description:

DEED OF TRANSFER

Deed of Transfer

When Recorded, return to:
Nibley City Planner
455 West 3200 South
Nibley, UT 84660

Affected Parcel No.: _____

Deed of Transfer Number: _____

Name(s) of Owners: _____

This document certifies that:

1. Owners are the holders of a Certificate of Transferable Development Rights (TDR Certificate) No. _____, which evidences transferable development rights (TDRs) eligible for transfer to a receiving property consistent with Nibley City pursuant to Chapter 19.48 of the Nibley City Municipal Code.
2. Owners have filed a Determination of Eligibility Application with the Nibley City Community Development Department to determine whether the TDRs are eligible to be transferred to receiving property within Nibley City.
3. The Nibley City Planner has determined, in accordance with Chapter 19.48 of the Nibley City Municipal Code, that _(number) TDRs are eligible to be transferred to property located at _____, County Parcel No(s). _____ (Receiving Property).
4. This Certificate represents the transfer of TDRs that will become valid and enforceable in accordance with Chapter 19.48 of the Nibley City Municipal Code upon the lawful and proper recordation of this Deed of Transfer.
5. Up on recordation of this Deed of Transfer, the TDRs associated with TDR Certificate No. _____ shall be extinguished. Holder of the TDR Certificate shall surrender the TDR Certificate before this Deed of Transfer is issued.

Transferable Development Rights: _____

Cache County Parcel ID Number: _____

Signature of City Planner

Date

Property Legal Description:

19.08.010 Establishment Of Zones

For the purpose of this title, the city is divided into the following zones and districts in which land uses shall be limited as specified in this title:

Agricultural zone ~~(A)~~
Rural estate zone ~~(R-E)~~
Residential zone ~~low density~~ (R-1)
Residential zone ~~low density~~ (R-1A)
Residential ~~zone~~ medium density (R-2)
Residential ~~zone~~ medium density (R-2A)
Residential ~~zone~~mixed use (R-M)
Commercial zone ~~(C)~~
Neighborhood commercial zone ~~(C-N)~~
Industrial zone ~~(I)~~
~~Park/School zone (P/S)~~
Floodplain overlay ~~zone~~ (FP)
~~Residential Planned Unit Development Overlay Zone (R-PUD)~~
~~Transfer of Development Rights Sending Overlay Zone (TDR-S)~~
~~Transfer of Development Rights Receiving Overlay Zone (TDR-R)~~

Deleted: high density

Deleted: district

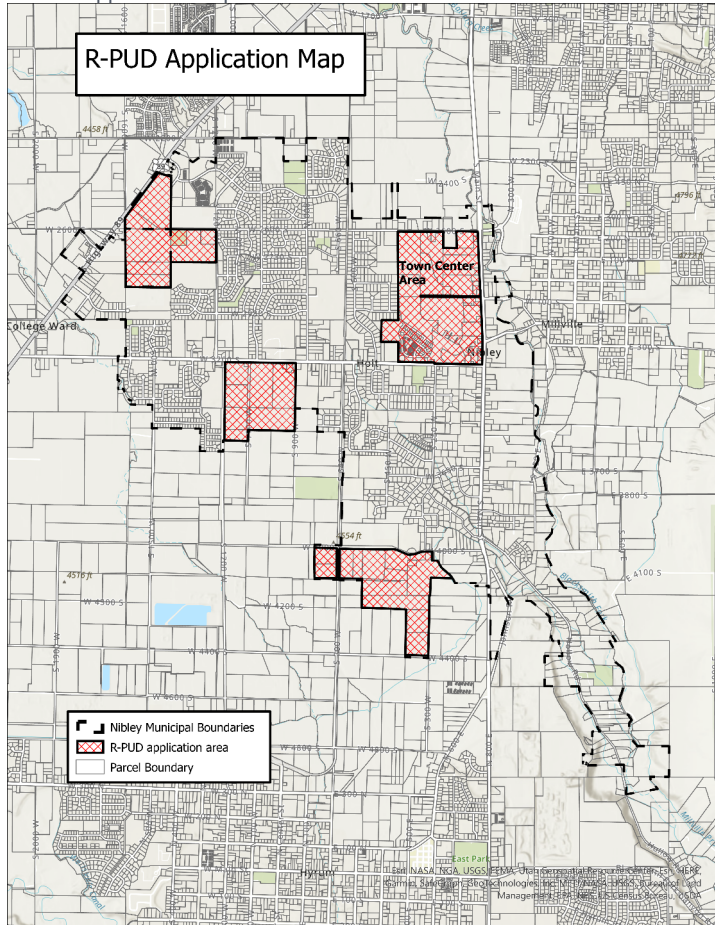
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Classification will be determined on the basis of location, topographical features and other reasonable considerations to guide the orderly physical development and ensure neighborhood compatibility and stability of the city in accordance with the Nibley General Plan.

19.32.030 Use Regulations

- A. An R-PUD may be applied for by following the steps listed in 19.32.070 (A) on properties designated on the R-PUD Application Map in NCC 19.32.030(B). These areas keep their base zoning, with that zoning's standards, conditions, and restrictions, unless the City Council approves the use of the R-PUD through an R-PUD application process. R-PUDs are prohibited in all other areas. The City Council, with a recommendation from the Planning Commission, may make changes to what parcels are labeled on the R-PUD Application Map by following proper ordinance change procedures.

B. R-PUD Application Map



C. The following are permitted uses in an R-PUD:

1. Single Family and Townhome dwelling units may be permitted uses, as defined within this ordinance.
2. Within the Town Center, Single Family, Patio Homes, Townhomes and Condominiums may be permitted uses, as defined within this ordinance.
3. All other uses not defined within this chapter shall comply with the underlying zone, lot size, and the Land Use Chart in NCC 19.20, unless otherwise specified within this ordinance.

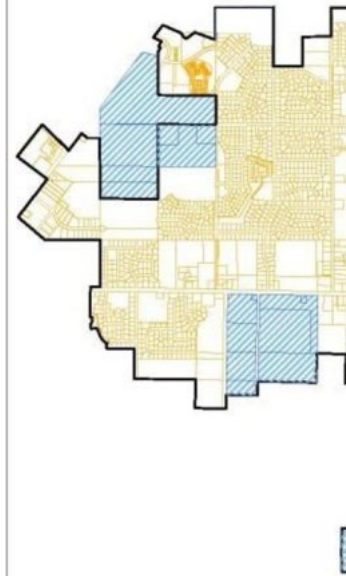
D. Any uses not specifically permitted or conditionally permitted are prohibited.

E. Animal Use: All animal uses shall be in accordance with Nibley City Code.

F. Up to 30% of the Net Developable Area may be approved for neighborhood commercial use as part of an R-PUD. These uses shall comply with Nibley's City's Neighborhood Commercial Zone Use Chart and standards as listed in NCC 19.14.050. These parcels shall be labeled on the plat as Neighborhood Commercial.

G. When calculating density for dwelling units, any Neighborhood Commercial area shall be subtracted from the Net Developable Area of the R-PUD.

19.32.030 (B) R-PUD Application



R-PUD may be applied for in the areas as m

Deleted:

- H. At no time shall the Planning Commission or City Council approve an R-PUD overlay application if the total possible percentage of R-PUD overlay areas exceed 15% of Nibley City's total land area.

19.32.040 Area And Density Regulations

- A. Minimum development size: The minimum total area for an R-PUD shall be 40 acres
- B. Housing Types: Only single-family homes and town homes are allowed in the R-PUD in residential areas, except as allowed in the Town-Center Area. The density shall be based on Net Developable Acres of the development as follows:
1. Equal to or less than 5 units per Net Developable Acre a. Single Family Home R-PUD must contain a minimum of 50 units.
 2. A Mix of Single Family and Townhomes: Equal to or less than 5 units per Net Developable Acre. Up to 60% of dwelling units can be townhomes. a. A Mix of Single Family and Townhomes R-PUD must contain a minimum of 120 units.

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19.32.080 Development Standards

These standards are intended to create R-PUD developments that will establish permanent neighborhoods and provide a sense of community. To meet the intent of this section, the following provisions shall be applied to all new multi-family residential and mixed-use developments. For exterior remodels, these standards shall be required. Commercial areas of an R-PUD must comply with Nibley City Commercial design standards for commercial developments.

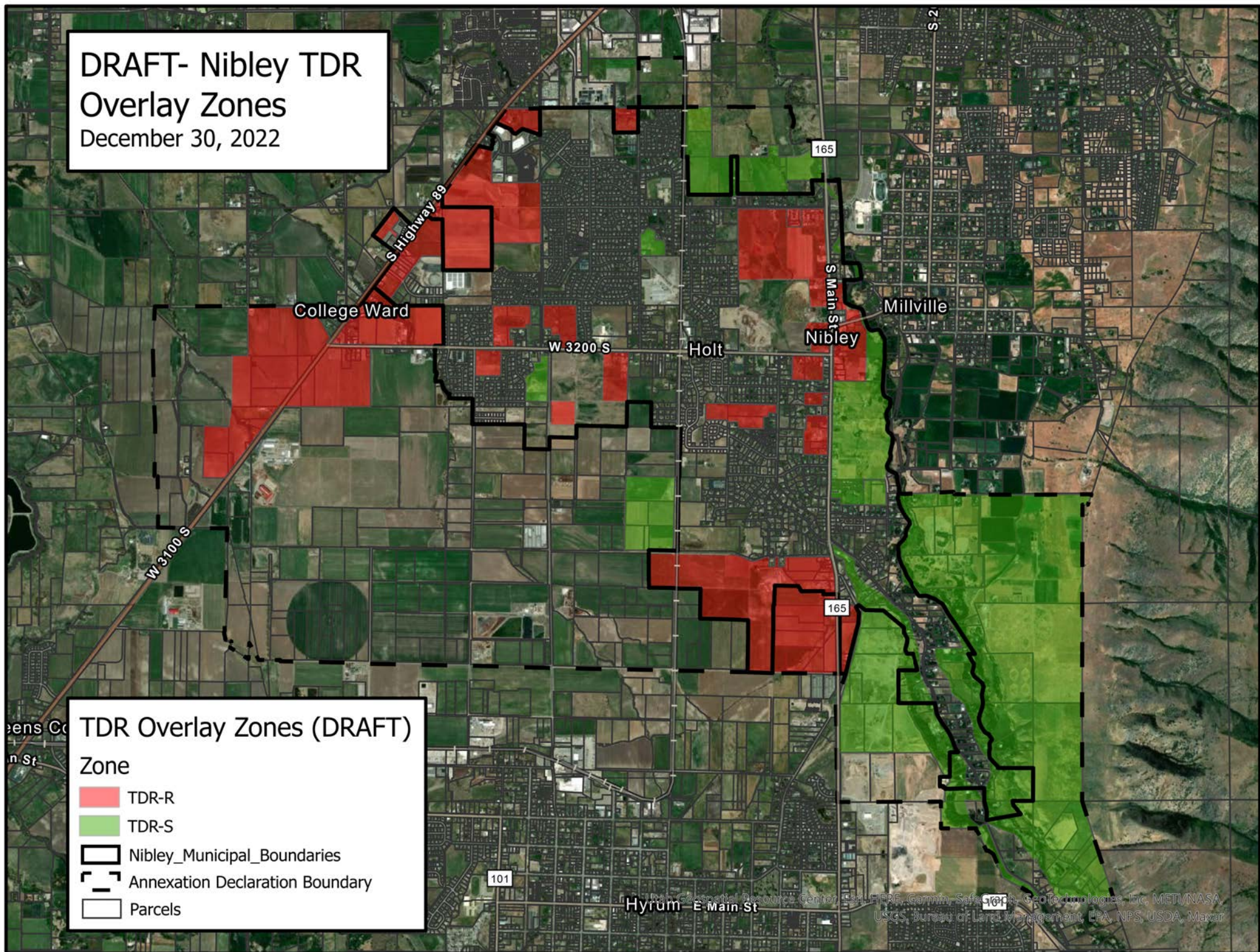
- A. Townhome, Patio Homes, and Condominium Architectural Standards
1. General Design Concepts. New development shall be designed for its specific context within Nibley City. Developments shall possess a similar design theme, and the site shall be designed such that the overall development is cohesive. Building architecture, exterior materials, and colors shall coordinate.
 2. All facades shall include architectural treatments to provide visual interest and to differentiate individual units. These design standards shall be applicable to all sides of a building, with each façade (front, rear, and side) being required to meet the terms of this Section.
 3. Building Materials. The majority of each façade (51% or more of the wall area excluding windows and doors) shall be constructed of the following hard surface building materials: brick, stone, stucco, treated or split face decorative block (CMU), fiber cement siding, concrete, composite siding, or other durable building material as approved by the City Council. EIFS or untreated concrete block (CMU) may be allowed as an accent or secondary material only. The Planning Commission may approve metal as an exterior building material and as a primary material on a case-by-case basis if an applicant can show that the type of metal is of a high grade and provides architectural quality to a building.
 4. Vertical Separation. Buildings in excess of one (1) story in height shall exhibit architectural detailing that establishes a vertical separation between lower and upper stories. This may be accomplished by a mid-façade cornice or trim, a change in material, style or color, a façade step-back or roof pitch with dormer windows, or other methods.
 5. Building Length: Building length shall not exceed 150 feet.
 6. Building Entrances. Building entrances shall have porches and shall be oriented toward the street or an open space area and provide connecting pedestrian access between the street, parking or open space areas.
 7. Variation. Townhome dwellings units shall be designed with architectural wall variations spaced at intervals of thirty (30) to fifty (50) feet in linear width, depending on the size of the

building. The following architectural features shall be incorporated into the design of the building:

- a. Change in building materials;
 - b. Building projections measuring at least twelve (12) inches in depth based on the scale of the proposed building;
 - c. Awnings and lighting, or another architectural variation as approved on a case-by-case basis that creates visual interest.
8. Garages. Townhomes shall be designed oriented toward exterior public roads with rear loading garages accessed by a paved parking area or alleyway, except along Highway 165 and 89/91 as approved. Rear loading garages are highly encouraged for townhomes located on interior project roads with units oriented toward a road or common courtyard area. Front loading garages may be allowed for townhomes that do not have any portion of the building adjacent to a current or planned public road or street outside of the development. Multiple unit structures shall have garages incorporated into the primary structure. At least fifty percent (50%) of units shall contain a two-car garage. Detached garages are prohibited in R-PUDs

DRAFT- Nibley TDR Overlay Zones

December 30, 2022

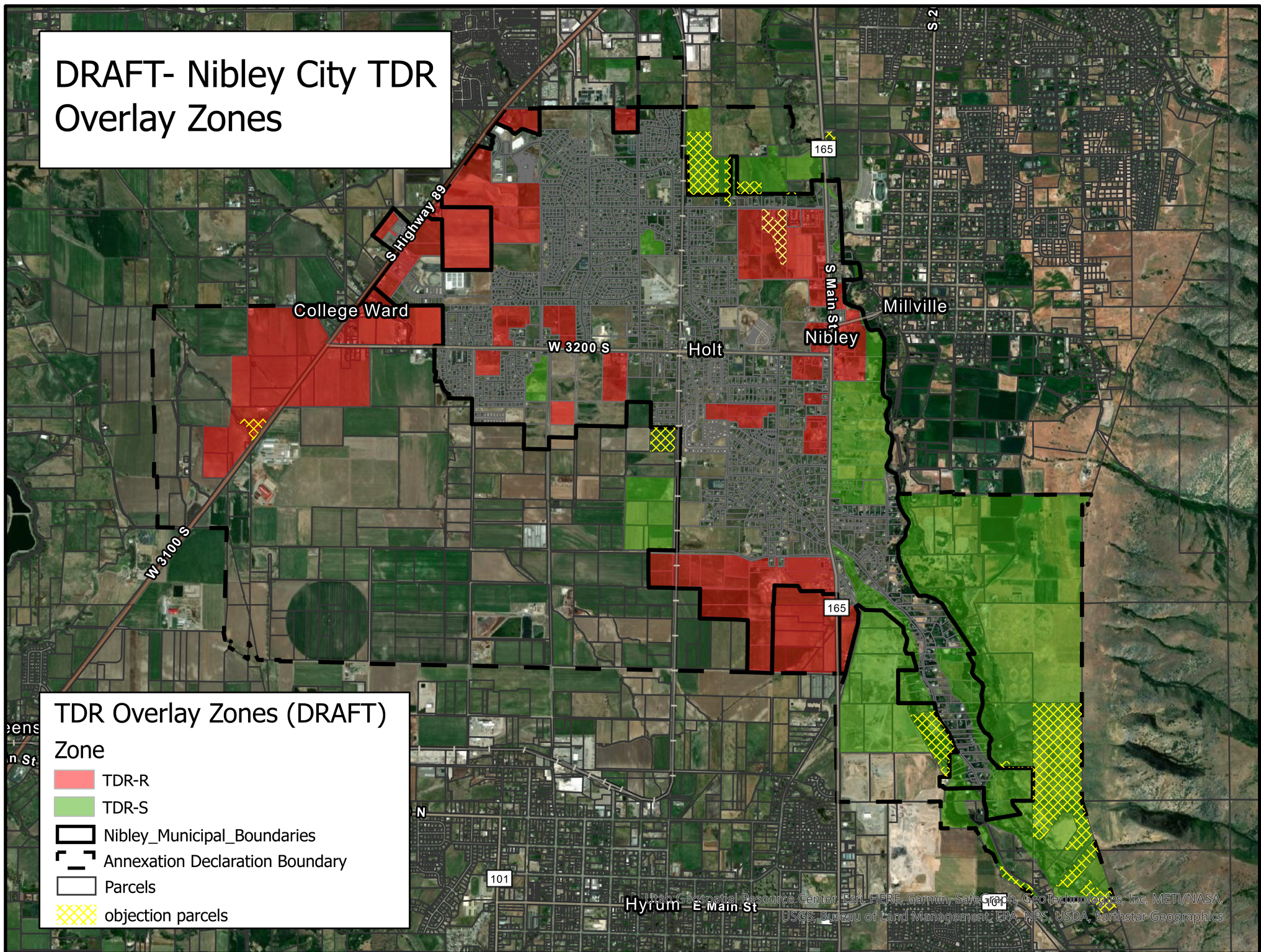


DRAFT- Nibley City TDR Overlay Zones

TDR Overlay Zones (DRAFT)

Zone

- TDR-R
- TDR-S
- Nibley_Municipal_Boundaries
- Annexation Declaration Boundary
- Parcels
- objection parcels



Agenda Item #13

Description	Discussion – Planning Commission Goals for 2023
Presenter	Levi Roberts, City Planner
Recommendation	Review the goals presented by Mr. Roberts and give feedback and recommendations.
Reviewed By	City Manager, City Planner, Planning Commission

Background

To guide the activities of the Planning Commission and supportive Staff for the year, the Planning Commission formalizes annual goals. The purpose of this discussion is to obtain feedback from City Council on the proposed goals. With Staff's support, the following goals were formulated and supported by the Planning Commission.

1. Review and make recommendations to create/update the following ordinances:
 - a. Landscape Ordinance and Standards
 - b. Town Center Commercial Zone and Standards
 - c. Conditional Uses
 - d. Subdivision Financial Assurance provisions
 - e. Access, Connectivity Standards and Intersection spacing
 - f. Update Nibley City Code to address development requirements outside of residential subdivisions
 - g. All required ordinance changes from State legislature
2. Update Parks, Recreation and Open Space Master Plan
3. Commence development of Active Transportation Master Plan to replace and update Trail Master Plan and active transportation elements of Transportation Master Plan
4. Develop more robust and standardized public and stakeholder engagement activities to ensure public buy-in of major code changes and plan updates.
5. Update Annexation Policy Plan, including analyzing areas to accommodate future growth in which utilities can be efficiently provided.
6. Implement strategies identified in Moderate Income Housing Plan
7. Update Tree Policy Plan

Agenda Item #14

Description	Discussion – City Prosecution Contract Update
Presenter	Justin Maughan, City Manager
Recommendation	Give staff direction on how to move forward with hiring a new City Prosecutor.
Reviewed By	Mayor, City Manager

Background

In 2019, Nibley City Council voted to terminate the Nibley City Justice Court. At that time, Nibley entered into an agreement with Hyrum City to have their Justice Court hear Nibley City cases. Also at that time, Nibley City issued an RFP for prosecution services, selected the Cache County Attorney's office, and a contracted for those services.

Interim Cache County Attorney Dane Murray visited with Justin Maughan, City Manager, and Mayor Larry Jacobsen in early February. He indicated that the Cache County Attorney's Office would be terminating the current prosecution contract at some point in the future. He indicated that the current staffing level at the County was not sufficient to give Nibley City the attention that it needed. In addition, the amount of money paid to Cache County by Nibley City did not come close to covering the costs that were being incurred by the County on Nibley's behalf.

In anticipation of a formal termination by the County, staff immediately began investigating options to replace the service and identified the following option for Justice Court prosecution.

Option 1 would attempt to renegotiate a contract with the Cache County Attorney's Office that provides adequate compensation to the County to continue their service. However, Mr. Murray indicated that he doubted the office would want to continue even if the compensation was substantially raised.

Option 2 would issue an RFP for the prosecution services and see who might be interested in performing them for Nibley and at what cost.

Option 3 would be to go directly to the prosecutor who is performing those services for Hyrum at the Hyrum Justice Court and negotiate a contract for the same services for Nibley. The firm currently providing prosecution for Hyrum is Daines & Jenkins, with Mr. Jon Jenkins serving as the lead prosecutor. Mayor Jacobsen and Mr. Maughan met with Mr. Jenkins to investigate the possibility of a contract. Mr. Jenkins expressed interest in performing the services and indicated that he had the capacity to do so. He

also indicated that it would be efficient to prosecute Hyrum and Nibley cases at the Hyrum Court. Mayor and Mr. Maughan also met with Hyrum City Mayor Stephanie Miller. She stated that Hyrum has been very happy with Mr. Jenkins as their prosecutor and agreed that it would help with efficiency at their Court. Mr. Maughan then spoke with Lt. Michael Shaun Bartschi at the Cache County Sherriff's office. The Sherriff's office currently works with Mr. Jenkins in Hyrum, as well as a few other towns in Cache County. Lt. Bartshci stated that Mr. Jenkins is very capable and works well with the Sherriff's office.

Staff and the Mayor recommend that the Council discuss these possibilities and if comfortable with it, direct staff to move forward with Option 3.