



## NIBLEY CITY COUNCIL and MUNICIPAL BUILDING AUTHORITY MEETING AGENDA

Thursday, August 3, 2017 – 6:30 p.m.

Nibley City Hall 455 West 3200 South, Nibley, Utah

1. Selection of a Mayor Pro-Tem
2. Opening Ceremonies (Councilman Bernhardt)
3. Call to Order and Roll Call (Chair)
4. Approval of Minutes and Agenda (Chair)
5. Public Comment Period<sup>1</sup> (Chair)
  
6. Presentation regarding upcoming Transportation Master Plan Update
7. A public hearing to receive comment regarding a preliminary plat for the Rigby Subdivision Amendment 2 located at approximately at 250 W 3450 S (Applicant: Gordon Rigby)
8. Discussion and consideration regarding a preliminary plat for the Rigby Subdivision Amendment 2 located at approximately at 250 W 3450 S (Applicant: Gordon Rigby)
9. Discussion and consideration for a final plat and development agreement for the Heritage Parkway Subdivision Phase 1 located at approximately at 2710 S 1200 W (Applicant: River Valley Development, LLC)
10. Truth in Taxation Hearing (7:00 p.m. or as soon thereafter as possible)
11. Discussion and Consideration of Resolution 17-06: A RESOLUTION AMENDING THE BUDGET FOR VARIOUS FUNDS OF NIBLEY CITY FOR FISCAL YEAR 2016-17, ADOPTING THE BUDGET FOR THE VARIOUS FUNDS OF NIBLEY CITY AND OTHER BUDGETARY MATTERS FOR FISCAL YEAR 2017-18 AND ADJUSTING CERTAIN FEES AND PAYMENTS FOR SERVICES (Final Adoption)
12. Adjourn to Annual Meeting of Municipal Building Authority to adopt annual MBA budget and update officers
13. Discussion and Consideration of Ordinance 17-09: CANAL ORDINANCE
14. Discussion and Consideration of Resolution 17-11: A RESOLUTION ESTABLISHING THE POLLING PLACE, APPOINTING POLL WORKERS AND SETTING THE RATE OF PAY FOR THEIR SERVICE
15. Council and Staff Reports

### **Adjourn Meeting**

*IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, REASONABLE ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES WILL BE PROVIDED UPON REQUEST. FOR ASSISTANCE, PLEASE CALL (435) 752-0431 AS SOON AS POSSIBLE BEFORE THE MEETING.*

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



**Nibley City Council  
Agenda Item Report for  
August 3, 2017**

**Agenda Item # 6**

<b>Description</b>	Presentation regarding upcoming Transportation Master Plan Update
<b>Department</b>	Public Works and Planning
<b>Presenter</b>	Justin Maughan, Public Works Director and Stephen Nelson, City Planner
<b>Financial Impact</b>	The update of the master plan is expected to cost tens of thousands of dollars. The exact cost will be determined after the scope of the project is prepared and bid. The plan is expected to call for multiple future transportation projects.
<b>Recommendation</b>	Receive the presentation and provide staff with direction on items to address in the master plan update
<b>Reviewed By</b>	Mayor, City Manager, Public Works Director, City Planner

**Background:**

It has been the practice of Nibley City to update one master plan each year. The City is in the process of finalizing the parks master plan and is beginning the process to update the transportation master plan.

Staff members will give a brief overview of the items anticipated to be addressed in the master plan update and will solicit input from the City Council regarding concerns they might want to ensure get addressed.

Agenda Item # 7 and 8

Description	<p>A public hearing to receive comment regarding a preliminary plat for the Rigby Subdivision Amendment 2 located at approximately at 250 W 3450 S</p> <p>Discussion and consideration regarding a preliminary plat for the Rigby Subdivision Amendment 2 located at approximately at 250 W 3450 S (Applicant: Gordon Rigby)</p>
Department	Planning
Presenter	Stephen Nelson
Applicant	Gordon and Shawn Rigby
Findings	<p>All lots meet required size, frontage, and setbacks</p> <p>The preliminary plat does not contain the name and address of the owner and also does not contain the date of preparation as required Nibley City Code 11-4-1</p> <p>The Applicant was award a variance to Nibley City 11-5-5 (G) regarding access to the private road.</p>
<b>Finical Impact</b>	There are several costs associated with new development and the higher impact that it puts on City infrastructure. However, these costs are offset by impact fees and other development fees.
Recommendation	Give preliminary approval for the Rigby Subdivision Amendment 2.
Reviewed By	City Planner, City Manager, City Engineer, City Building Inspector, Public Works Director, Planning Commission

**Background**

Gordon and Shawn Rigby have applied to subdivided The Rigby Subdivision further by adding a fifth lot.

## Engineer and Staff Review

	R-1A Zone	Rigby
Min Lot Size	.75 Acres	.76 Acres
Frontage	150 ft.	All lots comply
Side Yard Setback	10/25 ft	All lots comply
Read Yard Setbacks	25 ft	All lots comply

The subdivision is in the R-1A zone which requires all lots to be a minimum size of .75 acres and have a frontage of 150 ft. The plat complies with those standards. The plat also contains all requirements that are found in Nibley City Code 11-4-1 Standards of Approval: Preliminary Plat, except for the plat does not contain the name and address of the owner and also does not contain the date of preparation. These errors can be easily fixed and staff does not believe that those issues should hold up the plat from continuing.

The main concern with the plat is that it is proposing a fourth lot to access a private road. Nibley City Code 11-5-5 (G) limits the number of lots that access onto a private road to three lots and would require an upgrade to the road. Nibley City staff informed the developer during the pre-application meeting. The developer decided to seek a variance to this code to add the fourth lot. There was a variance hearing on June 28, 2017 where a variance was granted to allow a fifth home to access the private drive without needing to do any improvements to the road.

### Stormwater and Utilities

All the utilities are currently listed on the plat as required by Nibley City code. Stormwater is currently filtered off the road into the surrounding fields.

The Planning Commission on July 19, 2017 gave a recommendation to approve of the preliminary plat.

Agenda Item # 9

Description	Discussion and consideration for a final plat and development agreement for the Heritage Park Way Subdivision Phase 1 located at approximately at 2710 S 1200 W (Applicant: River Valley Development, LLC)
Department	Planning
Presenter	Stephen Nelson
Sponsor	N/A
Applicant	River Valley Development LLC
Findings	<p>All lots meet required size, frontage, and setback requirements.</p> <p>The development agreement has been written and agreed to by the City Staff and the Developer.</p> <p>The City Engineer has reviewed the construction drawing and has determined they are free of any major errors.</p> <p>The Developer has turned in the Groundwater Elevation Report and Tree Planting Plan.</p>
Financial Impact	There are several costs associated with new development and the higher impact that it puts on City infrastructure. However, these costs are offset by impact fees and other development fees.
Recommendation	Approve the Plat and Development Agreement with the condition that the "we recommend" be stricken from the ground water note.
Reviewed By	City Planner, City Manager, City Engineer, City Building Inspector and Public Works Director.

River Valley Development LLC has submitted a Final Plat and Construction Drawing for Phase 1. Heritage Parkway received Preliminary Approval for Phase 1-3 on February 2,

2017. Nibley City code requires that all phases receive final approval within one year of preliminary approval, however, the developer has only submitted Phase 1 at this time.

	Zoned (R-2A if approved)	Heritage Parkway
<b>Min Lot Size</b>	12,000 sq. ft.	12,441 sq. ft.
<b>Average Lot Size</b>	14,000 sq. ft.	14,437 sq. ft.
<b>Frontage</b>	100 ft	All lots comply
<b>Side Yard Setback</b>	10/25 ft	All lots comply
<b>Read Yard Setbacks</b>	25 ft	All lots comply

### Engineering and Staff Review

Nibley City Engineer and staff have reviewed the plat and construction drawing and submitted a letter to the developer with comments. The developer has received the letter and resubmitted the plat and construction drawings needed to comply with Nibley City Code. The Plat does comply with all aspect of the code as listed in 11-4-2 Final Plat.

The only concern that staff has about the plat that does not meet code is for the ground water note. The developer did a ground water study and found that the ground water level was about 2.5' deep. As such, a note on the plat states where the ground water height is at, but the wording says "we recommend the finish floor of any house be no lower that the highest adjoining top back curb". Staff believes that the "we recommend" needs to be stricken to fully comply with City Code 11-3-8 (B)(2).

### Stormwater and Utilities

The developer has included plans for all utilities and stormwater. The plan for stormwater is to have it filter into the remainder parcel to the west. As the development continues, the developer will be required to put in a temporary stormwater pond on Nibley's City Property for the future site. To the northwest of the development, Nibley has planned for a future regional stormwater basin that will service most of the developments to the south. The developer will need to pay for parts of the construction of the basin. The fee pre-home for the development is \$3,000. This was calculated for all home that will feed into that basin. The development agreement states that the developer can get a discount for stormwater infrastructure they add. The reason is the

estimated cost is for the basin, piping and other infrastructure requires for the whole system. Therefore, they get a discount for any part of the system they construct.

### **Transportation and Trails**

The developer has shown improvements to 1200 W to comply with our Road and Transportation Master Plan which designates the road to be a Minor Arterial with an 80' cross section. None of the lots along 1200 W will front onto 1200 W.

The developer has also included a pedestrian right-of-way, Parcel A, as required by Nibley City Code 11-5-5 (E).

### **Canals**

There is a canal that runs through the development. The developer is proposing to pipe the canal along 1200 W and have an open canal that would run along the back property lines of lots 1, 2, and 3. The developer has listed a 20' canal easement in the back yards. This plan complies with Nibley's current irrigation code and College Ward Canal Company has signed off on the plan.

### **Development Agreement**

A draft development agreement has been attached as required by Nibley City Code. It is currently under review by the City Attorney.

## Agenda Item # 10

<b>Description</b>	Truth in Taxation Hearing
<b>Department</b>	City Council
<b>Presenter</b>	David Zook, City Manager
<b>Financial Impact</b>	<p>A Truth in Taxation Hearing is required prior to adoption of the annual budget. The annual budget governs all City finances.</p> <p>The Nibley City tax on a residence valued at the average value of \$231,223 would increase from \$193.05 to \$212.00, which is \$18.95 per year. The Nibley City tax on a \$231,223 business would increase from \$351.00 to \$385.45, which is \$34.45 per year.</p> <p>If the proposed budget is approved, property tax revenue would increase by 9.79% above last year's property tax revenue, excluding new growth.</p>
<b>Recommendation</b>	Hold the public hearing and receive input regarding the proposed tax rate.
<b>Reviewed By</b>	Mayor, City Manager

### Background:

The Fiscal Year 2017-2018 Annual Budget proposes to maintain the previous year's property tax rate of 0.001667. It has been the City's practice to adjust the tax rate up or down back to the City's historic rate of 0.001667 each year.

Property tax revenue is determined by multiplying the property tax rate by the value of property in the City. Property valuations are reviewed by the County annually and new valuations are released by the County each June. Based on the valuations determined by Cache County, the County adjusts the City's tax rate to a level that, when multiplied against the new year's property value, generates the same amount of dollars of revenue for the City as was determined the previous year. That rate is referred to as the Certified Rate. The Certified Rate provided to Nibley City by Cache County is 0.001518.

If property values go up, this results in the certified tax rate being established at a lower amount than the previous year's tax rate. In order to allow the property tax revenue to grow with inflation and expansion, and to maintain sustainable and predicible service as the City grows, it is the City's practice to adjust the City's tax rate annually. This may be an increase or decrease depending on the state of the economy.



If the certified rate is raised or lowered by Cache County, a vote of the City Council is required to adjust the tax rate back to the historic level of 0.001667. The projected revenue for the next fiscal year, based on keeping the same rate of 0.001667, would be approximately \$430,000, based on current year property values.

The average home value in Nibley is \$232,000. This is up more than 9% from last year. Homeowners are taxed on 55% of the value on their primary residence. In order to adjust the rate up to the historical rate, the City is required to hold Truth in Taxation Hearing.

## Agenda Item # 11

<b>Description</b>	Discussion and Consideration of Resolution 17-06: A RESOLUTION AMENDING THE BUDGET FOR VARIOUS FUNDS OF NIBLEY CITY FOR FISCAL YEAR 2016-17, ADOPTING THE BUDGET FOR THE VARIOUS FUNDS OF NIBLEY CITY AND OTHER BUDGETARY MATTERS FOR FISCAL YEAR 2017-18 AND ADJUSTING CERTAIN FEES AND PAYMENTS FOR SERVICES (Final Adoption)
<b>Department</b>	City Council
<b>Presenter</b>	David Zook, City Manager
<b>Financial Impact</b>	The total City budget for the next fiscal year is proposed to be approximately \$8 million dollars. This is an increase from last year due mostly to the Firefly Park construction project, which will be nearly a half million-dollar project. There is also more than 1 million dollars in projects proposed in the capital project fund and there are several large equipment purchases proposed.
<b>Recommendation</b>	Adopt the Final Budget
<b>Reviewed By</b>	Mayor, City Manager, All Departments

### Background:

The budget for the next fiscal year has been presented to the public and City Council three times so far this year, including on May 4, 2017, on May 25, 2017, and on June 8, 2017. A public hearing was also held on May 25. Staff presented and reviewed various accomplishments, changes and proposals in the budget.

State law requires the City Council to adopt the budget by the second meeting in June at the latest. The City Council adopted the budget at its meeting on June 8, 2017, however, state law considers that budget a tentative budget until after a truth in taxation hearing is held.

Resolution 17-06 would adopt the budget for Fiscal Year 2017-18, as well as make final adjustments to the 2016-17 budget.

Approval of this resolution would increase the stormwater fee from \$6.75 to \$7.00 per month per residence and proposes to keep the property tax rate at its current rate of 0.001667. Some corrections and changes to the budget have been made since its last presentation, which staff will explain during the presentation.

## Agenda Item # 12

<b>Description</b>	Adjourn to Annual Meeting of Municipal Building Authority to adopt annual MBA budget and update officers
<b>Department</b>	City Council
<b>Presenter</b>	David Zook, City Manager
<b>Financial Impact</b>	The annual budget for the MBA is approximately \$77,000, which constitutes the debt payment to be made against the bonds owing for the cost of the City Hall construction. Additional principal is being paid against the debt this year above and beyond the amount due. The original debt incurred was \$850,000. The current amount owing will be less than \$750,000 after the next payment is made this October. The debt is scheduled to be paid off in 2041 if no extra payments are made.
<b>Recommendation</b>	Adopt the Final Budget for the MBA and make a motion to update the list of officers of the MBA to be the members of the current City Council.
<b>Reviewed By</b>	Mayor, City Manager

### **Background:**

The City Council also serves in the capacity of a Municipal Building Authority. The MBA should hold annual meetings to adopt its budget, which is included as a part of the City's annual budget. At the annual meeting, the MBA should also update its list of officers, which are the City Council members.

The MBA is the financing authority for the debt that was incurred to construct City Hall.

Staff members are researching options to propose to the City Council at a future time about potential approaches for paying down this debt sooner than the original amortization schedule.

### Agenda Item # 13

<b>Description</b>	Discussion and Consideration of Ordinance 17-09: CANAL ORDINANCE
<b>Department</b>	Planning
<b>Presenter</b>	Stephen Nelson, City Planner
<b>Financial Impact</b>	
<b>Recommendation</b>	Discuss and consider the new changes to the proposed ordinance.
<b>Reviewed By</b>	Mayor, City Manager, City Planner, City Attorney, Planning and Zoning Commission, Canal Companies, Public Works Director, City Engineer, College Ward Irrigation Company, Nibley Blacksmith Fork Irrigation Company, and Hyrum Blacksmith Fork Irrigation Company

#### **Background:**

There have been several proposed amendments and changes to the canal ordinance. The proposed changes have been sent to each of the canal companies in town, the City Attorney, Aaron Bliesner, and other staff members. The City has not heard back from the canal companies at this time, but staff is planning to follow up with each company and is working on getting some other guidance from the City Attorney.

#### **Key Changes**

**Section 2 and 3:** These sections were reviewed the last time the City Council reviewed the ordinance, but staff believes it was worth mentioning again. At the City Council request, staff and the attorney have defined, for the sake of this ordinance, the difference between rights-of-way and easements. A right-of-way will be defined as publicly owned by the City and an easement will be privately owned, but allow access to the City or Canal Company.

**Section 5:** Section 5 contains the most changes from the version originally recommended by the Planning Commission. The first major change was to Subsection (a) and the removal of subsections (b-d). Subsections (a-d) use to outline how large a right-of-way would be required depending on the size of the canal. One of the main concerns was the difficulty in judging what the capacity would be and who would define it. In order to simplify the ordinance, subsection (a) was changed to require a right-of-way along each canal measured from 10' from the top of each bank.

Section 5 (b) was changed to reflect the recommendation from the City Council to clarify how the right-of-way would affect zoning density. A subdivision that requires some sort of open space would be able to count the rights-of-way along canals and other waters way toward their open space requirements. A standard subdivision would just be required to dedicate the land and there would be no additional off set.

**Section 6:** There are only a few minor changes to this section. The first change is in Subsection (a), which clarifies where the 15' setback would be measured from. Subsection (b) lays out an exemption for agricultural fences and fences required to define boundaries for public access with a condition that it is approved by the Public Works Director. Subsection (c) is then combined with Subsection (b) which defines the exemption for structures that were built beofore the ordiance. A change has been made that if there was going to be any change to these structures that the City or holder of the easement may request an engineering report prior to the permitting the remodel or replacement of the structure.

The remainder of the document contains some minor changes in wording and are highlighted in the Markup version of the Canal Ordinance that has been provided to the Council.

**Agenda Item # 14**

<b>Description</b>	Discussion and Consideration of Resolution 17-11: A RESOLUTION ESTABLISHING THE POLLING PLACE, APPOINTING POLL WORKERS AND SETTING THE RATE OF PAY FOR THEIR SERVICE
<b>Department</b>	City Recorder
<b>Presenter</b>	Cheryl Bodily, Deputy City Recorder
<b>Financial Impact</b>	The annual budget for the City Elections is \$4,000.
<b>Recommendation</b>	Approve the polling place, list of poll works and poll worker wages and waive the second reading of the ordinance
<b>Reviewed By</b>	City Manager/Recorder, Deputy City Recorder

**Background:**

Nibley City will hold primary and general elections this year on August 15 and November 7. The City Council must establish the polling place, appoint poll workers for the elections and must also establish their rate of pay.

Staff requests that the City Council waive the second reading of the ordinance because the Council is not scheduled to have another meeting prior to the primary election.

KARLENE CONGER  
03-028-0011

**PRELIMINARY PLAT  
FOR THE  
RIGBY SUBDIVISION AMENDMENT 2**  
A PART OF THE N.E. 1/4 OF SECT. 28  
T. 11 N., R. 1 E. S.L.B.&M.  
NIBLEY CITY, CACHE COUNTY, UTAH  
JUNE 2017

TUDDENHAM  
03-176-0005

LOWELL W. YEATES  
03-028-0016

BRUCE RIGBY  
03-176-0006

(709.5' BR)  
738.55'

LOWELL W. YEATES 03-046-0025

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD	BEARING
C1	14.98'	15.00'	57°12'10"	14.36'	N 60°23'42" W
C2	40.55'	45.00'	51°38'08"	39.20'	S 57°36'41" E
C3	62.87'	45.00'	80°02'41"	57.88'	N 56°32'54" E
C4	87.25'	45.00'	111°05'23"	74.21'	N 39°01'08" W
C5	40.55'	45.00'	51°38'08"	39.20'	S 59°37'06" W
C6	14.98'	15.00'	57°12'10"	14.36'	N 62°24'08" E

3400 SOUTH STREET

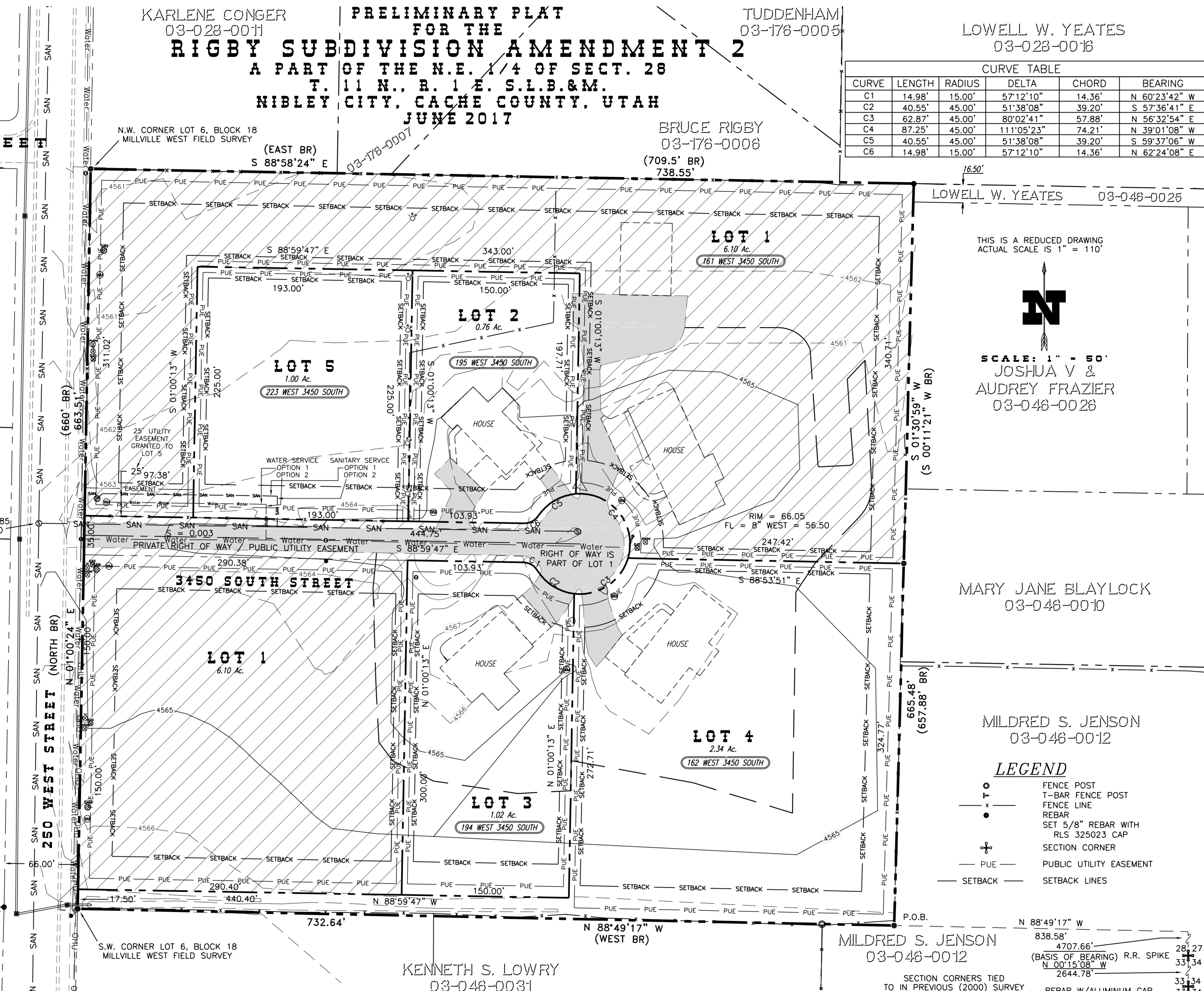
TLG PROPERTIES LLC  
03-046-0022

TODD D. STIMPSON  
03-046-0041

RIM = 64.26  
FL = 8" EAST = 54.85  
FL 8" N-S = 54.10

PHILLIP L & SASHA N TAKIS  
03-046-0017

INGE DIRMHJRN  
03-179-COMM



THIS IS A REDUCED DRAWING  
ACTUAL SCALE IS 1" = 110'



SCALE: 1" = 50'  
JOSHUA V &  
AUDREY FRAZIER  
03-046-0026

MARY JANE BLAYLOCK  
03-046-0010

MILDRED S. JENSON  
03-046-0012

**LEGEND**

- x — FENCE POST
- T — T-BAR FENCE POST
- — — FENCE LINE
- • — REBAR
- + — SET 5/8" REBAR WITH RLS 325023 CAP
- + — SECTION CORNER
- PUE — PUBLIC UTILITY EASEMENT
- — — SETBACK LINES

MILDRED S. JENSON  
03-046-0012  
SECTION CORNERS TIED TO IN PREVIOUS (2000) SURVEY  
REBAR W/ALUMINUM CAP

**SURVEYOR'S CERTIFICATE**

I, JEFF S. HANSEN, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, AND THAT I HOLD LICENSE NO. 325023, IN ACCORDANCE WITH TITLE 58, CHAPTER 22, OF THE PROFESSIONAL ENGINEERS AND LAND SURVEYORS LICENSING ACT. I FURTHER CERTIFY THAT BY THE AUTHORITY OF THE OWNERS, I HAVE COMPLETED A SURVEY OF THE PROPERTY DESCRIBED ON THIS PLAT IN ACCORDANCE WITH SECTION 17-23-17 AND HAVE VERIFIED ALL MEASUREMENTS; AND HAVE PLACED OR WILL PLACE MONUMENTS AS REPRESENTED ON THIS PLAT.

Jeff S. Hansen R.L.S. No. 325023 Date

ELECTRONIC COPY 6-05-17

**BOUNDARY DESCRIPTION**

A PART OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 11 NORTH, RANGE 1 EAST OF THE SALT LAKE BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE RAILROAD SPIKE MONUMENT FOUND AT THE SOUTHEAST CORNER OF SECTION 28, TOWNSHIP 11 NORTH, RANGE 1 EAST OF THE SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH 00°15'08" WEST ALONG THE PROJECTION OF THE EAST LINE OF THE NORTHEAST QUARTER OF SECTION 33 OF SAID TOWNSHIP 4707.66 FEET; THENCE NORTH 88°49'17" WEST 838.58 TO THE TRUE POINT OF BEGINNING; AND RUNNING THENCE NORTH 88°49'17" WEST (WEST BY RECORD) 732.64 FEET TO THE SOUTHWEST CORNER OF LOT 6, BLOCK 18 OF THE MILLVILLE WEST FIELD SURVEY; THENCE NORTH 01°00'24" EAST 663.51 FEET (NORTH 660 FEET BY RECORD) TO THE NORTHWEST CORNER OF SAID LOT 6; THENCE SOUTH 88°58'24" EAST 738.55 FEET (EAST 709.5 FEET BY RECORD); THENCE SOUTH 01°30'59" WEST 665.48 FEET (SOUTH 00°11'21" WEST 657.88 FEET BY RECORD) TO THE POINT OF BEGINNING, CONTAINING 11.22 ACRES AND 4 LOTS.

**NOTES**

- 3450 SOUTH STREET IS PART OF LOT #1 WITH ACCESS RIGHTS GRANTED TO LOTS 2, 3, 4 & 5.
- 3450 SOUTH STREET IS A PRIVATE ROAD FOR LOTS 1, 2, 3, 4, & 5. 3450 SOUTH WILL BE MAINTAINED BY THE OWNERS OF LOTS 1, 2, 3, 4 & 5.
- CROSS HATCHED AREA INDICATES LOT #1.

**OWNER'S DEDICATION**

KNOW ALL MEN BY THESE PRESENTS THAT WE, THE UNDERSIGNED OWNERS OF THE ABOVE DESCRIBED TRACT OF LAND, HAVING CAUSED THE SAME TO BE SUBDIVIDED INTO LOTS AND STREETS TO BE HERINAFTER KNOWN AS: "RIGBY SUBDIVISION AMENDMENT 2" DO HEREBY DEDICATE, GRANT AND CONVEY TO NIBLEY CITY, UTAH THOSE CERTAIN STRIPS AS EASEMENTS FOR PUBLIC UTILITY AND DRAINAGE PURPOSES AS SHOWN HEREON, THE SAME TO BE USED FOR THE INSTALLATION, MAINTENANCE AND OPERATION OF PUBLIC UTILITY SERVICE LINES AND DRAINAGE AS INTENDED FOR PUBLIC USE.

IN WITNESS WE HAVE HEREUNTO SET OUR SIGNATURES THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 20\_\_\_\_.

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

**ACKNOWLEDGMENT**

STATE OF UTAH  
COUNTY OF \_\_\_\_\_  
ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_,  
PERSONALLY APPEARED BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC IN AND FOR SAID COUNTY OF UTAH, IN SAID STATE OF UTAH, THE SIGNERS OF THE ABOVE OWNERS DEDICATION, WHO DULY ACKNOWLEDGED TO ME THAT THEY SIGNED IT FREELY AND VOLUNTARILY AND FOR THE PURPOSES THEREIN MENTIONED.

NOTARY PUBLIC  
MY COMMISSION EXPIRES \_\_\_\_\_

**COUNTY SURVEYOR'S CERTIFICATE**  
I CERTIFY THAT I HAVE EXAMINED THIS PLAT AND FIND IT TO BE CORRECT AND IN ACCORDANCE WITH THE INFORMATION ON FILE IN THIS OFFICE.  
DATE \_\_\_\_\_ COUNTY SURVEYOR \_\_\_\_\_

**PLANNING COMMISSION APPROVAL**  
APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 20\_\_\_\_  
BY THE NIBLEY CITY PLANNING AND ZONING COMMISSION.  
CHAIRPERSON \_\_\_\_\_

**COUNCIL APPROVAL AND ACCEPTANCE**  
PRESENTED TO THE NIBLEY CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 20\_\_\_\_. AT WHICH TIME THIS SUBDIVISION WAS APPROVED AND ACCEPTED.  
COUNCIL CHAIRPERSON \_\_\_\_\_ ATTEST \_\_\_\_\_

**COUNTY RECORDER'S NO.**  
STATE OF UTAH, COUNTY OF \_\_\_\_\_, RECORDED AND FILED AT THE REQUEST OF \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_ FEE \_\_\_\_\_ ABSTRACTED \_\_\_\_\_  
INDEX FILED IN: FILE OF PLATS \_\_\_\_\_ COUNTY RECORDER \_\_\_\_\_

**APPROVAL AS TO FORM**  
APPROVED AS TO FORM THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 20\_\_\_\_  
ATTORNEY \_\_\_\_\_

**ENGINEER'S CERTIFICATE**  
I CERTIFY THAT I HAVE EXAMINED THIS PLAT AND FIND IT TO BE CORRECT AND IN ACCORDANCE WITH THE INFORMATION ON FILE IN THIS OFFICE.  
DATE \_\_\_\_\_ ENGINEER \_\_\_\_\_

**SUBDIVISIONS  
PROPERTY SURVEYS  
TOPOGRAPHIC SURVEYS  
CONSTRUCTION STAKING**

**JSH** SURVEYING & DRAFTING INC.  
P.O. BOX 300 • WELLSVILLE, UTAH 84339  
(435) 245-9090 • TOLL FREE 1-888-420-0268



# HERITAGE PARKWAY SUBDIVISION PHASE 1

PART OF THE NORTHWEST QUARTER OF SECTION 20,  
TOWNSHIP 11 NORTH, RANGE 1 EAST,  
SALT LAKE BASELINE AND MERIDIAN  
**FINAL PLAT**

NORTH

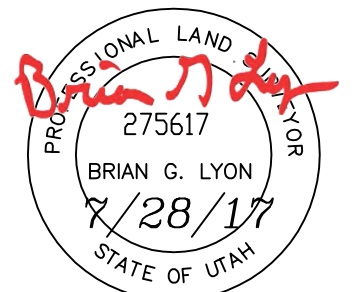


SCALE 1" = 40'-0"

## SURVEYOR'S CERTIFICATE

I, Brian G. Lyon, a Registered Land Surveyor, hold Certificate No. 275617, as prescribed by the laws of the State of Utah, and do hereby certify that by authority of the owners, I have made a survey of the tract of land shown on this plat, which is accurately described therein, and have subdivided said tract of land into lots and streets to be hereafter known as HERITAGE PARKWAY SUBDIVISION, PHASE 1, and that the same has been surveyed and staked on the ground as shown on this plat.

Signed on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.



## BOUNDARY DESCRIPTION

Part of the Northwest Quarter of Section 20, Township 11 North, Range 1 East of the Salt Lake Baseline and Meridian described as follows:

Commencing at the Northwest Corner of Section 20, Township 11 North, Range 1 East of the Salt Lake Baseline and Meridian monumented with an Aluminum Cap; thence S89°47'40"E 2654.08 feet to the North Quarter Corner of said Section 20; thence S00°31'26"E 425.70 feet to the POINT OF BEGINNING and running

thence S 00°31'26" E 531.30 feet;  
thence N 89°52'03" W 349.77 feet;  
thence N 09°48'11" W 249.97 feet;  
thence N 89°18'05" E 55.13 feet;  
thence N 00°31'26" W 109.35 feet;  
thence N 89°47'40" W 40.06 feet;  
thence N 00°30'18" W 175.35 feet;  
thence S 89°47'40" E 375.03 feet to the point of beginning, containing 4.45 acres, more or less.

## OWNER/ DEVELOPER

OWNER: RIVER VALLEY DEVELOPMENT LLC  
470 N 2450 W  
TREMONTON, UTAH 84337

DEVELOPER: SIERRA HOMES  
470 N 2450 W  
TREMONTON, UTAH 84337

## ALLIANCE CONSULTING ENGINEERS



150 EAST 200 NORTH SUITE P  
LOGAN, UTAH 84321  
(435) 755-5121

## NOTES:

- Building setbacks are as follows:  
Front yard = 30 feet, 35 where yard faces arterial street  
Side yard:  
All lots = 10 feet from adjacent lot  
Corner lots = 25 feet side on street, 35 where yard faces arterial  
Rear yard = 25 feet
- Lot easements unless otherwise noted are as follows:  
Front yard = 10 feet  
Side yard:  
All lots = 5 feet for interior lots  
Corner lot = 20 feet from street  
Rear yard = 10 feet
- All required necessary public improvements and utilities shall be financed by purchaser or seller and not by Nibley City
- No structures may be built within any public utility easement, except as approved by the City Engineer.
- This property is located in the vicinity of property that is used for agricultural purposes. It may be anticipated that such agricultural uses and activities may or may not in the future be conducted in this area and that such uses are previously existing uses. Agricultural uses and situations must be sound agricultural practices and not bear a direct threat to public health and safety.
- This subdivision is shown on Record of Survey #05-0038 recorded in the Cache County Surveyor's Office. A clockwise rotation of 00°00'35" was used to match our Basis of Bearing.
- The drive access to any corner lot must be a minimum of 60 feet from the property line intersection of the street right-of-way.
- 5/8" rebar with cap will be set at all rear and interior property corners. Curb pins will be set at the intersection of the lot line with the curb once it is placed.
- Parcel A is dedicated to Nibley City.
- Restricted lots shall access only off 1230 West Street.
- No lots allowed to front off of 1200 West Street.

## LEGEND

	QUARTER SECTION CORNER		BOUNDARY LINE
	SET 5/8" REBAR W/ CAP LS#275617 SEE NOTE#9		LOT LINE
	STREET MONUMENT		SETBACK (SEE NOTE #1)
	STREET ADDRESS		EASEMENT
	RESTRICTED LOT - SEE NOTE#10		BOUNDARY LENGTH AND BEARINGS

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C50	19.00	12.00	90°43'42"	N44°50'25"E	17.08
C51	19.00	12.00	90°43'46"	S44°50'27"W	17.08
C52	18.70	12.00	89°16'14"	N45°09'33"W	16.86
C53	37.43	60.00	35°44'39"	N14°50'11"W	36.83
C54	17.48	20.00	50°04'19"	S07°40'21"E	16.93
C55	40.59	130.00	17°53'15"	N08°25'11"E	40.42
C56	68.13	60.00	65°03'18"	N54°45'05"E	64.52
C57	85.65	60.00	81°47'24"	S51°49'34"E	78.56
C58	18.88	70.00	15°27'19"	N07°12'14"E	18.83
C59	19.18	20.00	54°56'02"	N42°23'54"E	18.45
C60	84.61	60.00	80°47'47"	S29°28'02"W	77.77
C61	18.73	12.00	89°27'06"	N45°15'02"W	16.89
C62	20.09	60.00	19°11'17"	N12°37'47"E	20.00

### GROUND WATER/FLOOR ELEVATION LIMITATION

Areas in Nibley City have groundwater problems due to the varying depths of a fluctuating water table. In the area of this development the groundwater was encountered at 2.5' feet deep. We recommend the finish floor of any house be no lower than the highest adjoining top back curb elevation. The City's approval of a building permit or construction plans does not constitute a representation by the City that building at any specified elevation or location will solve subsurface or groundwater problems. In addition, concerns for building elevations and/or grading and drainage are unique to each building lot site. Responsibility for these stated concerns, and all other such concerns related to a lot or other building site, remains solely with the building permit applicant, property owner and/or contractor. Nibley City is not responsible for other such concerns, including, but not limited to, building location and/or elevation, site grading and drainage.

### UTILITY EASEMENT DEDICATION

RIVER VALLEY DEVELOPMENT, LLC OWNER OF THE PROPERTY SET FORTH AND DESCRIBED IN THIS PLAT, HEREBY OFFERS AND CONVEYS TO ALL PUBLIC UTILITY AGENCIES, THEIR SUCCESSORS AND ASSIGNS, A PERMANENT EASEMENT AND RIGHT-OF-WAY OVER, UNDER, ACROSS, AND THROUGH ALL AREAS DESIGNATED ON THIS PLAT AS PUBLIC UTILITY EASEMENTS OR UTILITY EASEMENTS FOR THE CONSTRUCTION AND MAINTENANCE OF SUBTERRANEAN ELECTRICAL, TELEPHONE, NATURAL GAS, SEWER, WATER AND DRAINAGE LINES AND APPURTENANCES, TOGETHER WITH THE RIGHT OF ACCESS THERETO, WHICH WOULD REQUIRE THAT NO SURFACE CONSTRUCTION BE ALLOWED WHICH WOULD INTERFERE WITH NORMAL UTILITY USE. IT IS UNDERSTOOD THAT IF IT BECOMES NECESSARY TO RELOCATE SAID UTILITIES AT THE INSTANCE OR REQUEST OF ANY PUBLIC ENTITY OR THE OWNER, THE COSTS AND EXPENSES INCURRED THEREBY WILL BE BORNE BY THE OWNER OR THE ENTITY REQUIRING OR REQUESTING THE SAME.

### OWNERS DEDICATION

KNOW ALL BY THESE PRESENTS THAT WE THE UNDERSIGNED OWNERS OF THE ABOVE-DESCRIBED TRACT OF LAND, HAVING CAUSED THE SAME TO BE SUBDIVIDED IN TO LOTS AND STREETS TO BE HEREINAFTER KNOWN AS: "HERITAGE PARKWAY SUBDIVISION, PHASE 1", DO HEREBY DEDICATE FOR PERPETUAL USE OF THE PUBLIC ALL PARCELS OF LAND SHOWN ON THIS PLAT AS INTENDED FOR PUBLIC USE, AND DO WARRANT, DEFEND AND SAVE THE MUNICIPALITY HARMLESS AGAINST ANY EASEMENTS OR OTHER ENCUMBRANCES ON THE DEDICATED STREETS WHICH WILL INTERFERE WITH THE MUNICIPALITY'S USE, OPERATION AND MAINTENANCE OF THE STREETS AND DO FURTHER DEDICATE THE EASEMENTS AND DRAINAGE AREAS AS SHOWN, WITH THE SAME WARRANTY AS GIVEN FOR OTHER DEDICATED PROPERTY.

### ACKNOWLEDGEMENT

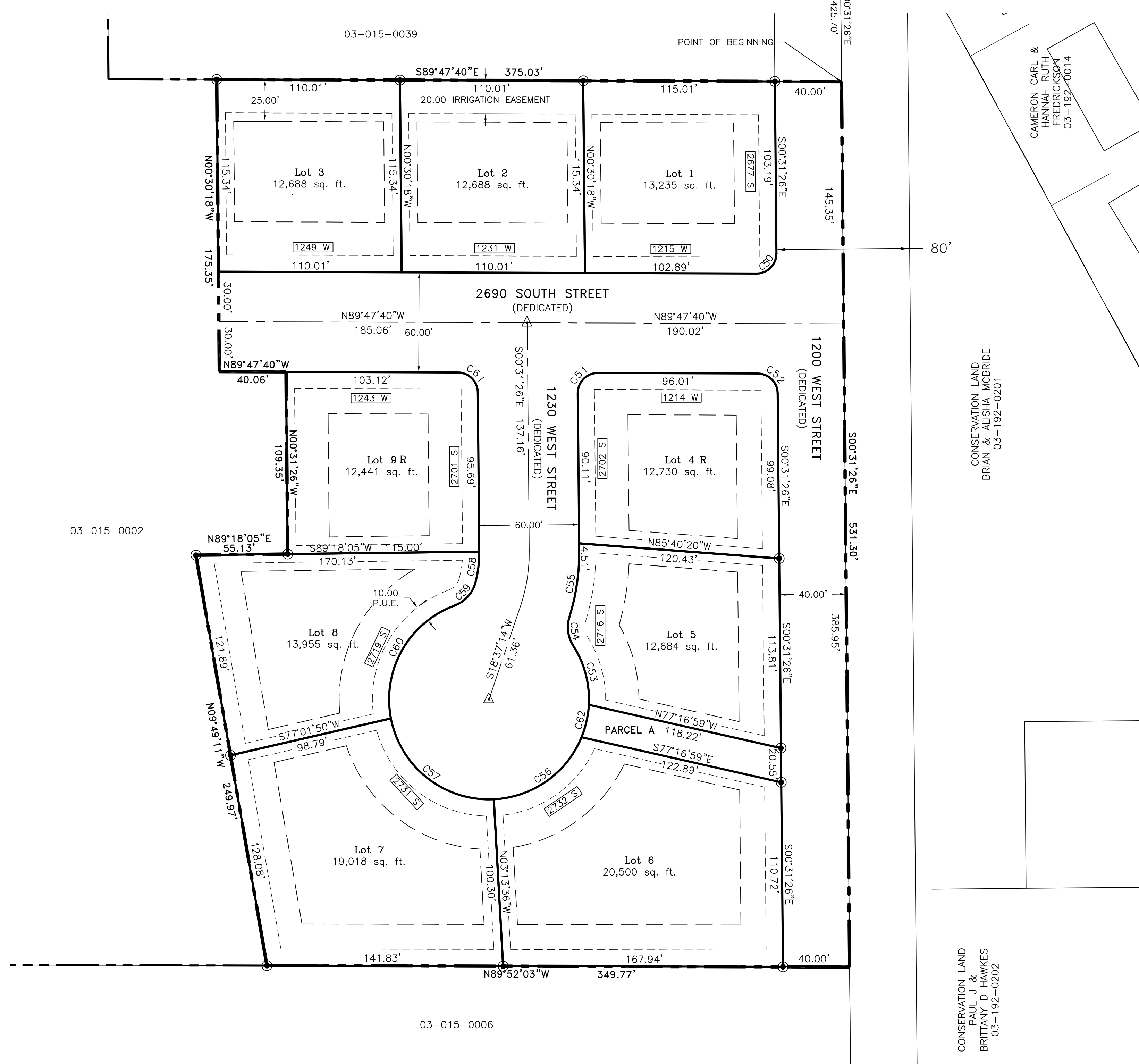
STATE OF UTAH  
COUNTY OF \_\_\_\_\_  
On this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_, personally appeared before me \_\_\_\_\_ Manager of River Valley Development, LLC, who, being by me duly sworn, did say for himself that he is the Manager of River Valley Development, LLC, a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said LLC by authority of its Articles of Organization and he duly acknowledged to me that River Valley Development, LLC executed the same

In witness whereof, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
MANAGER, River Valley Development, LLC

MY COMMISSION EXPIRES \_\_\_\_\_ NOTARY PUBLIC  
RESIDING AT \_\_\_\_\_

18 17  
19 20 BASIS OF BEARING  
S89°47'40"E 2654.08'  
N COR. SEC 20  
NORTHWEST CORNER  
SEC 20, T11N, R1E, SLB&M  
FOUND CACHE CO. AL. CAP



CAMERON CARL &  
HANNAH RUTH  
FREDRICKSON  
03-192-0014

CONSERVATION LAND  
BRIAN & ALISHA MCBRIDE  
03-192-0201

CONSERVATION LAND  
PAUL J &  
BRITTANY D HAWKES  
03-192-0202

**PLANNING COMMISSION APPROVAL AND ACCEPTANCE**  
Presented to the Nibley City Planning Commission chairman this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_, at which time this subdivision was recommended to the City Council for approval.  
\_\_\_\_\_  
Planning Commission Chairman Date

**CITY COUNCIL APPROVAL AND ACCEPTANCE**  
Presented to the Nibley City Council this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_, at which time this subdivision was approved and accepted.  
\_\_\_\_\_  
Mayor Date

**CITY ENGINEER CERTIFICATE**  
I certify that I have examined this plat and find it to be correct and in accordance with information on file in this office and the City Ordinance.  
\_\_\_\_\_  
Date City Engineer

**COUNTY RECORDER**  
State of Utah, County of Cache, recorded and filed at the request of \_\_\_\_\_  
Date \_\_\_\_\_ Time \_\_\_\_\_ Fee \_\_\_\_\_  
\_\_\_\_\_  
Index  
Filed in: File of plats County Recorder

**ATTORNEY APPROVAL**  
Approved as to form this \_\_\_\_\_ day of \_\_\_\_\_ A.D., 20\_\_\_\_.  
\_\_\_\_\_  
City Attorney

**UTILITIES APPROVAL**  
THE UTILITY EASEMENTS SHOWN ON THIS PLAT ARE APPROVED.  
CENTURY LINK REPRESENTATIVE DATE \_\_\_\_\_  
COMCAST CABLE REPRESENTATIVE DATE \_\_\_\_\_  
ROCKY MNTN POWER REPRESENTATIVE DATE \_\_\_\_\_  
QUESTAR REPRESENTATIVE DATE \_\_\_\_\_



Lot	Size	Fontage
1	13,235.00	Meet
2	12,688.00	Meet
3	12,688.00	Meet
4	12,730.00	Meet
5	12,684.00	Meet
6	20,500.00	Meet
7	19,018.00	Meet
8	13,955.00	meet
9	12,441.00	Meet

Total	129,939.00
Average	14,437.67
Min	12,441.00

**NIBLEY CITY  
DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT (“Agreement”), entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between River Valley Development LLC, hereinafter referred to as “Developer” and Nibley City, here in after referred to as “City”, and

WHEREAS, Heritage Parkway Phase 1, hereinafter referred to as “the Development” has been approved for construction; and

WHEREAS, plans for the Development are on file with Nibley City and are incorporated by reference herein; and

WHEREAS, it is necessary for the interest of the public welfare that improvements made be constructed in accordance with the specifications set forth in said plans and as provided by Nibley City ordinances and Design Standards; and

WHEREAS, Developer desires to record a final plat of the Development in order to obtain building permits and construct structures after the necessary infrastructure is installed, approved and accepted; and

WHEREAS, in accordance with said Nibley City ordinances, including Section 11-5 of the Nibley City Code, the Developer is required to furnish security for the completion of all improvements or complete all improvements prior to recording a final plat.

NOW THEREFORE, to induce Nibley City to approve said plans and allow use of city-owned utilities and access and/or other improvements, 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. Developer hereby acknowledges that Developer has read the Subdivision Ordinance (or that an agent of Developer has), and that Developer understands the provisions of the Subdivision Ordinance and that Developer will fully and completely comply with the provisions and requirements therein contained.

2. In accordance with Nibley City Code Section 11-6-6, Developer shall tender to Nibley City an Improvement Bond in the amount of \$ 472,388.78. In the event that Developer shall fail or neglect to fulfill the obligations under this Agreement, Nibley City shall have the right to construct or cause to be constructed said streets and other improvements as shown on said plans as required by Nibley City ordinances and Design Standards, and upon completion of said improvements Developer, as secured, shall be liable to pay to, and indemnify Nibley City for, the final total cost incurred by Nibley City, including but not limited to, engineering, legal and contingency costs, together with any damages which Nibley City may sustain on account of

the failure of Developer to carry out and execute all of the provisions of this Agreement which said sums are secured by the Improvement Bond.

3. Developer shall supply the City with water rights or shares as set forth in Nibley City Code Section 11-5-2 for the Development, as follows: 11.34 Acre-ft. of water shares from College Ward Irrigation Company or an equivalent amount of acre feet from another irrigation company located in Nibley City. Developer shall provide said shares to the City before the commencement of construction.

4. This development will be served by the future Regional Basin and Piping at 2600 S and 1350 W (2600 SW Park). The developer will pay \$3,000 per lot (9 lots) for a total of 27,000.

- a. The Developer may install a portion of the permanent infrastructure improvements and deduct cost incurred from the overall assessment. Receipt of such cost shall be provided to the City and the City will then determine the final balanced owed.

5. Developer shall ensure that Street Trees are planted and maintained in the Development in accordance with Nibley City Code Chapter 7-6 and the attached Street Trees Plan which is incorporated herein as Exhibit "A." The developer shall ensure that trees are planted before the issuing of occupancy permits and enter into agreements with builders to install each tree.

6. The Developer shall install landscaping improvement along 1200 West as part of the improvements to the Right-of-Way. These improvements will then be maintained by the City. The Developer shall install trees and irrigation system and finish all other improvements before the City will accept the improvements.

7. The Developer shall construct and landscape the pedestrian right-of-way located on Parcel A. The pedestrian right-of-way shall be built according to the standards in Nibley City Code 11-5-5 (E), which will contain 7.5' landscaping on each side of a 5' sidewalk. The landscaping shall match the landscaping on the 1200 West right-of-way. The Developer shall plant approved trees and install an irrigation system.

8. The Developer has provided a report to the City establishing the ordinary high groundwater and elevation and finished floor elevations as required by Nibley City Code 11-3-8 (B) attached as Exhibit "B". No finished floor elevations, including basement floor elevations, shall be permitted below the aforementioned groundwater elevation. A note has been provided on the plat outline the finish floor elevation for each lot.

9. 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; provided, however

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

10. In the event that either of the parties to this Agreement shall be in default or breach of this Agreement, said party shall be liable to pay all reasonable attorney's fees, court costs and other related costs and expenses incurred by the non-defaulting or non-breaching party in pursuing its rights hereunder or under the laws of the State of Utah.

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 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.

12. Developer shall provide a Warranty Bond in the sum equal to ten percent (10%), a total of \$47,238.88, of the estimated costs of all improvements installed in the Development as estimated by the City Engineer for the period of Developer's warranty on the improvements in the Development. Security in amounts more than 10% may be required by the City Manager if it is deemed appropriate and necessary. The Warranty Bond shall meet all the criteria outlined in Nibley City Code Chapter 11-6.

13. 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.

14. 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; provided, however, that this Agreement cannot be assigned, transferred or conveyed by either party, without the express, written consent of the other party.

15. 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.

16. 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.

17. 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.

18. 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.

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.

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

**NIBLEY CITY**

**DEVELOPER**

\_\_\_\_\_  
By: DAVID N. ZOOK  
Its: City Manager

\_\_\_\_\_  
By: Matt Nielsen

\_\_\_\_\_

STATE OF UTAH    )  
                              : ss  
County of Cache    )

On this \_\_\_\_ day of \_\_\_\_\_, 2017, personally appeared before me DAVID N. ZOOK, 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 \_\_\_\_\_, 2017, personally appeared before me, \_\_\_\_\_, Developer, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

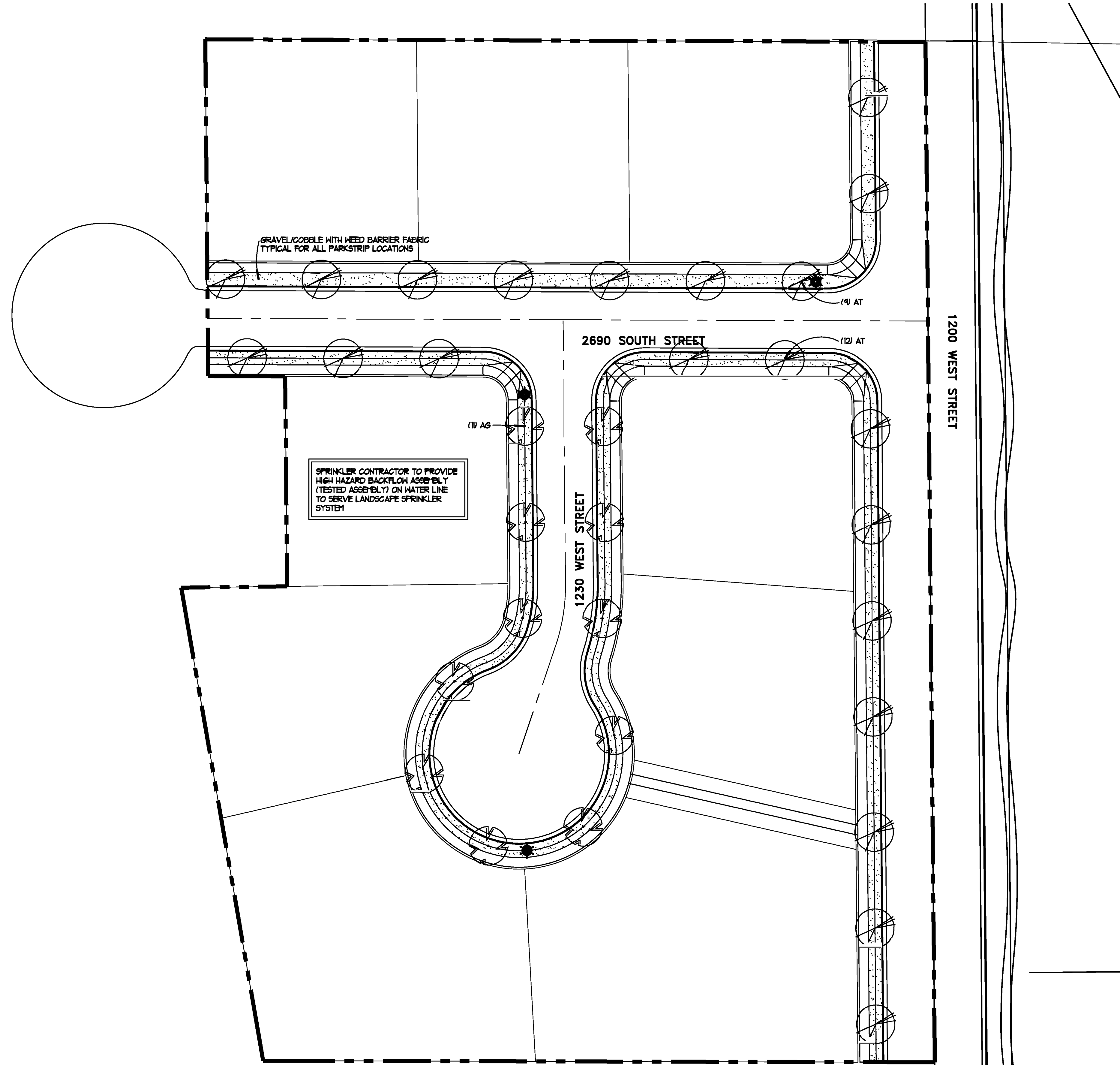
\_\_\_\_\_  
NOTARY PUBLIC

HERITAGE PARKWAY SUBDIVISION  
PHASE 1



SCALE 1"=30' Hor

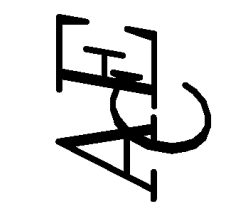
PLANT SCHEDULE				
KEY	SCIENTIFIC NAME COMMON NAME	SIZE	SPACING	REMARKS
TREES				
AT	ACER TRUNCATUM PURPLEBLOW (OR SHANTUNG) MAPLE	2" CAL.	50' O.C.	-
AG	ACER GRANDIDENTATUM BIGTOOTH MAPLE	2" CAL.	50' O.C.	-



REVISIONS	
DATE	DESCRIPTION

HERITAGE PARKWAY SUBDIVISION  
PHASE 1  
1200 WEST CONSTRUCTION

ALLIANCE CONSULTING  
ENGINEERS  
150 EAST 200 NORTH SUITE P  
LOGAN, UTAH 84321  
(435) 755-5121



DATE	7-25-2017
DRAWN BY	GMW
REVIEW BY:	
JOB NO.	
SHEET	
OF	

Exhibit B

Alliance Consulting Engineers, Inc  
150 E 200 N Suite P  
Logan, Utah 84321  
435-755-5121

July 26, 2017

*Geotechnical Engineering Investigation Report*  
Heritage Parkway Subdivision Phase 1  
2690 South, 1200 West  
Nibley, Utah

To Whom It May Concern:

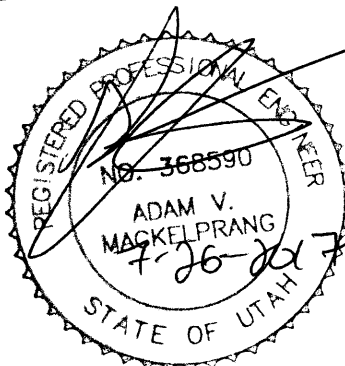
Per the following information the finished floor of any house constructed in Heritage Parkway Subdivision Phase 1 should be not be lower than the highest adjoining top back curb elevation unless a lot specific geotechnical report is performed and approved by the City.

- On June 22, using a rubber tire backhoe, two holes were excavated to approximately 6 feet. The first hole was centered in the future Lot 2, with the second hole being at the location of the proposed cul-de-sac. Ground water was encountered at a depth of 2.5 feet in each hole.
- Per the NRCS the project soils consist of the following:  
GvA-greenson loam 62.8%-historical depth to ground water is 30-42 inches  
KfA-kidman fine sandy loam 19.9%- historical depth to ground water is 42-60 inches  
Pv-provo gravelly loam 17.2%- historical depth to ground water is 26-60 inches  
A map is attached showing these soils and their location.

If you have questions regarding this report or desire additional information please contact us.

Sincerely,

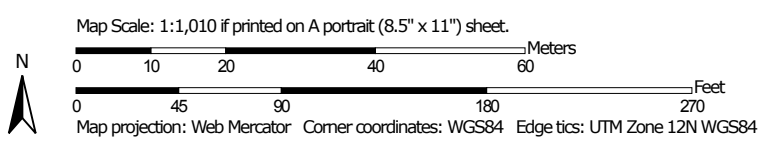
Alliance Consulting Engineering  
150 East 200 North Suite P  
Logan, Utah 84321  
(435) 755-5121



Soil Map—Cache Valley Area, Parts of Cache and Box Elder Counties, Utah




Soil Map may not be valid at this scale.





## MAP LEGEND

### Area of Interest (AOI)

 Area of Interest (AOI)

### Soils

 Soil Map Unit Polygons

 Soil Map Unit Lines

 Soil Map Unit Points

### Special Point Features



Blowout



Borrow Pit



Clay Spot



Closed Depression



Gravel Pit



Gravelly Spot



Landfill



Lava Flow



Marsh or swamp



Mine or Quarry



Miscellaneous Water



Perennial Water



Rock Outcrop



Saline Spot



Sandy Spot



Severely Eroded Spot



Sinkhole



Slide or Slip



Sodic Spot



Spoil Area



Stony Spot



Very Stony Spot



Wet Spot



Other



Special Line Features

### Water Features



Streams and Canals

### Transportation



Rails



Interstate Highways



US Routes



Major Roads



Local Roads

### Background



Aerial Photography

## MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

**Warning:** Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service  
 Web Soil Survey URL:  
 Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Cache Valley Area, Parts of Cache and Box Elder Counties, Utah  
 Survey Area Data: Version 9, Sep 8, 2016

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jul 8, 2010—Sep 28, 2011

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

## Map Unit Legend

Cache Valley Area, Parts of Cache and Box Elder Counties, Utah (UT603)			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
GvA	GREENSON LOAM, DEEP OVER GRAVEL, 0 TO 1 PERCENT SLOPES	3.0	62.8%
KfA	KIDMAN FINE SANDY LOAM, DEEP WATER TABLE, 0 TO 2 PERCENT SLOPES	1.0	19.9%
Pv	PROVO GRAVELLY LOAM	0.8	17.2%
<b>Totals for Area of Interest</b>		<b>4.8</b>	<b>100.0%</b>

**ORDINANCE 17-09**  
**AN ORDINANCE PRESERVING THE**  
**SAFETY AND ALLOWING FOR MAINTENANCE OF CONVEYANCE**

WHEREAS, Nibley City has an ownership interest in all irrigation companies within the City; and

WHEREAS, Nibley residents rely on free-flowing and clean conveyances for the conveyance of irrigation water to agricultural and rural landscapes, and also for the conveyance of City stormwater; and

WHEREAS, unobstructed conveyances are critical to controlling flooding of private and public property within the City, and, in some cases, are integral parts of the City's historic stormwater infrastructure; and

WHEREAS, open conveyances provide critical wildlife habitat and corridors, opportunities for connectivity and recreation, are an integral part of the rural landscape, and in Nibley, provide the primary means of controlling groundwater levels in the City; and

WHEREAS, water rights are privately held property and the diversion, distribution, delivery, and use of irrigation waters existed prior to the establishment of Nibley City, and much of the City's subsequent residential development; and

WHEREAS, agricultural irrigation and its conveyance corridors are critical to the sustainability of agricultural land uses in the community, and the preservation of desirable rural characteristics; and

WHEREAS, increased development pressure is impeding conveyance owners' ability to maintain the infrastructure such that it can function for its intended purposes of irrigation delivery flood control; and

WHEREAS, Nibley City has certain contractual obligations with respect to the Nibley Blacksmith Fork Irrigation Company (NBFI); and

WHEREAS, Nibley City has the authority to establish policies to control the impact of development on commonly held assets and resources within the City.

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

1. The attached ordinance, titled "AN ORDINANCE PRESERVING THE SAFETY AND ALLOWING FOR MAINTENANCE OF CONVEYANCE" is hereby 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 \_\_\_\_\_, 2017.

\_\_\_\_\_  
Shaun Dustin, Mayor

ATTEST:

\_\_\_\_\_  
City Recorder

**ORDINANCE 17-09 \_\_\_\_\_**  
**AN ORDINANCE PRESERVING THE**  
**SAFETY AND ALLOWING FOR MAINTENANCE OF CONVEYANCE**

1. Conveyance as used in this Ordinance includes surface water runoff and drainage, drainage ditches and irrigation waterways, whether surface or subsurface, and includes open canals or ditches as well as piped waterways.

2. Rights-of-Way or Right-of-Way as used in this Ordinance shall refer to land dedicated to the City, for use by the public, if the City chooses, as open space, park space or trails; and for the use of the irrigation company and City for conveying of irrigation and stormwater and for the maintenance and repairs of the Conveyance or other infrastructure along the Conveyance. Typically, the underlying land will be publicly owned and will be subject to the Right-of-Way and uses described in this paragraph.

3. Easement, as used in this ordinance, shall refer to legal and permanent access granted along an irrigation conveyance or canal on private land for the use of the irrigation company or City for conveying of irrigation and storm water and for the maintenance and repairs of the Conveyance or other infrastructure along the Conveyance.

4. Irrigation companies shall have the right of access to irrigation Conveyance structures, fixtures, features, channels, and pipes as allowed by state law, and as permitted by the Easements and Rights-of-Way of such companies.

5. Primary Canals and Waterways shall be defined for the purposes of the ordinance as all waterways designated by the US Army Corps of Engineers as subject to their regulation, canals designated by canal companies as critical to their ability to deliver water to their customers through filing and delineation in the City GIS, and other natural and constructed canals and structures determined by the City Public Works Director to be critical to the performance of storm drainage systems, including sub-water collection and drainage. The database of Canals and Waterways shall be maintained by the City Public Works Director as a City GIS. Designation of a waterway not so designated by Federal listing or by the Irrigation Company operating the facility under this section may be appealed to the City Council.

6. Rights-of-Way shall be acknowledged as to the applicable irrigation company and dedicated to the City with all new subdivisions as follows:

a. Applicants shall provide on all subdivisions where an open Primary Canal or Waterway traverses the subdivision a Right-of-Way of 10' from top of each bank to be identified on the preliminary plat and final plat.

b. Each new subdivision shall dedicate Rights-of-Way to the City, for use by the public if the City chooses, along open Conveyances. The company that is responsible for the

maintenance of the Conveyance shall also have access to the Right-of-Way in order to render service or maintenance to the Conveyance.

- (1) For subdivisions that require open space, public space, or conservation space; the dedicated right-of-way's acreage along irrigation conveyances shall count toward the development's total open space, public space or conservation space as required by zoning and subdivision code.
- (2) In industrial, commercial, and commercial neighborhood zones, the dedicated right-of-way acreage along irrigation conveyances, if landscaped, shall count towards the percentage of landscaped area as required by Nibley City code as approved by the Planning Commission.

c. Piped conveyances shall be provided with dedicated 20' (twenty foot) access easements extending 10' (ten feet) on either side of the centerline of the pipe for any portion of the conveyance that has been piped. The easement permits access by the entitie(s) responsible for operation and maintenance of the conveyances. Pipe easements shall run with the land, and do not imply or provide right of public access.

d. So far as possible, all dedicated Rights-of-Way shall be directly accessible from another public Right-of-Way and shall provide unobstructed access for service equipment.

e. Alignment(s) of all Rights-of-Way relative to the Conveyance alignment(s) shall be coordinated with the City and Conveyance company.

f. Irrigation structures such as boxes, bridges, trash racks, or similar structures or appurtenances which are wider than the open channel or piped Conveyance shall be provided with dedicated Right-of-Way no less than 15' beyond the maximum footprint of the structure, but not less than the width of the Right-of-Way of the Conveyance upon which the structure is placed.

7. Setbacks to protect access to Conveyance structures, fixtures, features, channels, or pipes shall be established on all new construction for emergency and maintenance activities, and to provide safety to structures near waterways.

a. Open Conveyances shall be provided a setback of fifteen-feet (15') measured from the top of the inside bank of the canal for a conveyance on level ground, from the top of the cut slope on the uphill side for a canal cut into a slope, or from the toe of the canal bank slope on the downhill side, whichever is greater. Piped Conveyances shall be provided a 10' setback measured from the center of the pipe.

b. Setbacks shall apply to all primary and accessory structures, fences, decks or similar features that would otherwise hinder maintenance or emergency access to the Conveyance corridor regardless of whether a permit is required. Agricultural fences and fences required to define the boundary of public access on trails enabled by this ordinance are exempted from this requirement subject to acceptance of the fence placement and design by the City Public Works Director or their designee.

The City will not require permits for existing fences or structures or permanent improvements within the fifteen-foot (15') setback if such were legal under Nibley City Ordinances when such structures were constructed. The City may at its discretion or at the request of the owner of the easement or right of way require an engineering report prior to permitting remodel or replacement of existing fences or structures.

c. Nibley City will not issue building, fence, grading or other permits that would limit, hinder, infringe or encroach upon any established irrigation Easement, Right-of-Way or setback by deed, use or otherwise for access to or maintenance of the canals and waterways within the City.

d. If these setback requirements conflict with other City Ordinances, agreements, franchise or other document governing setbacks provisions, the greater setback requirement shall prevail.

8. For changes in land use, including but not limited to building permits, new subdivisions, rezones, annexations, and development the City may require Preliminary Plats or other applications/petitions to be submitted to irrigation companies who may be impacted by the subdivision for review, comment and/or approval.

9. The City adopts the following conditions and requirements with respect to any land use change, development, or improvement that may impact any NBFII irrigation Conveyance structures, fixtures, features, channels, pipes, or access routes and which, at the discretion of the City Manager, in consultation with the Mayor, may be applied to and required for other irrigation Conveyance structures, fixtures, features, channels, pipes, or access routes within the City prior to any land use change, development or improvement:

a. Authorization for New Storm Water Inlet Structures and Outlet Structures. No new or additional Storm Water Inlet Structures and Outlet Structures and no increases in the flow of such inlets or outlets beyond the Current Discharge as defined by an Agreement between the City and NBFII shall be created or maintained except in conformance with the following procedure.

(1) The City, a landowner, or a developer may at any time contact NBFII to evaluate the potential for new Inlet Structures and Outlet Structures, or the potential for an increase in the capacity of any existing Inlet Structure or Outlet Structure.

(2) The City, a landowner, or a developer shall provide a written request to NBFII for each additional Storm Water Inlet Structure or Outlet Structure and for increases in flow beyond the Current Discharge or any previously approved increase for existing Inlet Structures or Outlet Structures. The request shall be accompanied by the following:

(i) Drawings in both digital and printed copy showing the location, size, and design specifications of each Inlet Structure or Outlet Structure proposed to be added or increased.

(ii) Drawings showing the drainage area to be served by the Inlet Structure.

(iii) Expected occurrences that will cause Storm Water inflow into the irrigation Conveyance, including an estimate of the time of year during which maximum inflows are expected, subject to subsection (iv) below.

(iv) An estimate of the maximum inflow to be expected from the area to be served by the Inlet Structure (with the understanding that the maximum flow may not exceed the flow allowed by Current Design Standards). This rate is determined by completing a hydrologic analysis based on soil types to determine the runoff rates prior to any land use change, development or improvement for sites greater than 1 acre, or by assuming a historical runoff rate of 0.1 CFS per acre for sites smaller than 1 acre.

(v) Written disclosure of whether the Storm Water discharge to the irrigation Conveyance is expected to contain any Pollutant regulated under the Utah Clean Water Act and implementing regulations thereof.

(vi) Certification that the City, landowner or developer has complied and will comply with all applicable requirements of the Utah Water Quality Act and associated regulations.

(vii) Any additional documentation or information reasonably requested by NBF.

b. Any objections of any kind by NBF to a new proposed Inlet Structure, Outlet Structure, or the enlargement of either, shall be given by written notice within sixty (60) days after receipt by NBF of the written request for the same from the City, landowner or developer. NBF shall have the right to refuse such approval only if, as demonstrated by empirical data:

(1) in the case of a new Inlet Structure or enlargement of an existing Inlet Structure, water inflow into the Conveyance from such inlet will exceed the Current Discharge into the Conveyance from the drainage area to be served by such inlet;

(2) the inflows are found by a City-County Health Department or other State, County or federal agency to be physically harmful to animals, crops of any kind, or any other beneficial use of the water; or

(3) the proposed Inlet Structure or Outlet Structure will diminish the ability to utilize all of the water to which NBF is entitled under its water rights, hinder water deliveries, or alter, damage or obstruct, diversion structures, measuring devices, or regulating headgates on the Conveyance.



c. If NBFI does not provide written objections within sixty (60) days after receipt of the City's, landowner's, or developer's written request, NBFI shall be deemed to have approved the additional Inlet Structure, Outlet Structure, or increase in capacity of either.

d. If the request for additional Inlet Structures, Outlet Structures or increase in capacity of an inlet or outlet is not agreed to, NBFI shall work with the City, landowner or developer in an attempt to reach an equitable resolution in order to provide for the same.

e. If the additional Inlet Structure, Outlet Structure or increase in flow is formally approved or deemed approved as provided herein, the City shall allow commencement of construction or modification only after a written Agreement has been agreed-to, signed by the City, landowner or developer and NBFI.

f. The City shall require, as a condition to any land use change, development or improvement approval, that infrastructure (such as fencing or other improvements) be installed by a landowner or developer as part of a land development project, when reasonably determined by the City to be necessary.

g. Landowners or developers of any land within the City must include with their plans and specifications a storm water plan that provides for all storm water to be handled at the site of such land use change, development, or improvement except as may be otherwise approved by the City and NBFI.

h. Trash Racks. The City shall require landowners or developers to install, in connection with City-approved land use changes, development plans, or improvements, trash racks and inlet grates, to the design standard set by the City and NBFI, on all Inlet Structures so as to prevent clogging of the headgates, screens and pipelines situated within the Conveyance.

10. If any landowner or developer of any land proposes any piping of an open Conveyance such as a canal or ditch, the construction of bridges or retaining walls, fences within the setback, the installation of culverts, or any other action which may in any way affect a Conveyance or access to the Conveyance, the City shall require that the plans and specifications be delivered to the irrigation company, and that the irrigation company consent to the same, in writing, prior to the approval by the City of such land development, which consent or the basis for denying such consent shall be given by the irrigation company within sixty (60) days after receipt of the request for approval. If the irrigation company does not provide a written objection within sixty days after receipt of the request, the request will be deemed to have been approved.

11. Alteration of irrigation Conveyance structures, fixtures, features, channels, or pipes, including grading, modification, contouring or removal of vegetation or soil of banks of canals or other irrigation Conveyance Easements or Rights-of-Way, shall be done only by the irrigation company, or pursuant to a written permit issued by the irrigation company.

12. Vested rights in the established irrigation Easements or Rights-of-Way for both Conveyance of water and for access and maintenance of the irrigation structures or channels or

pipes shall be protected against all encroachments and no improvements shall be erected that interfere with the same and the City shall issue no permits for improvements that interfere with the same.

13. Conditions to use of canals for storm water discharge and Conveyance:

a. The right to convey storm water in the canal extends to all times of the year and is not affected by the fact that during the irrigation season the irrigation company is operating the canal for the transportation and delivery of irrigation water to the irrigation company's shareholders, subject to the following:

(1) The use of the canal by the City extends only so far as the canal exists in its present state, and only to the extent of such rights as the irrigation company shall have in the canal. The irrigation company cannot authorize the City to expand the canal capacity in order to convey additional stormwater beyond that stormwater already authorized and agreed to between the irrigation company and the City.

(2) At all times, the Conveyance of irrigation water under water rights owned by the irrigation company shall have first priority in terms of the use and capacity of the canal.

(3) In evaluating the capacity of the canal as part of the City's Storm Water management program, the capacity shall be measured at the most restrictive location on the canal.

14. A civil action for damages or declaratory relief to require a party to comply with this ordinance may be brought by the City or any person injured by another's actions in violation of this ordinance. Such civil action may be brought independent of any criminal action.

15. If the Land Use Authority decision with respect to any land use application adversely affects an applicant, a board or officer of the City, or any other person or organization adversely affected by the Land Use Authority's decision under this Ordinance, the affected person or organization may file an appeal with the City's Appeal Authority only as provided in Section 10-3-3 of the Nibley City Code, Appealing Land Use Authority's Decision.

16. It is unlawful for any person to place any pole, board or other obstruction whatsoever, or any trash, yard waste or other waste material, other than irrigation water, in any Conveyance structure, channel, or pipe for any purpose, or in any manner to interfere with the free and unobstructed flow of water in such Conveyance structure, channel, or pipe. Violation of this provision constitutes a Class B misdemeanor under this Ordinance.

17. It shall be unlawful to willfully or maliciously alter, break, or injure any dam, irrigation Conveyance structures, fixtures, features, channels, pipes, or to dig away the bank or banks of any ditch, canal, toe of side slop or reservoir within the Nibley City boundaries. Violation of this provision constitutes a Class B misdemeanor under this Ordinance.

18. Whenever any irrigation company has an Easement or Right-of-Way for any irrigation Conveyance, it shall be unlawful for any person to place or maintain in place any obstruction, or to change the water flow by fence or otherwise, along or across or in any irrigation Conveyance structures, fixtures, features, channels, or pipes, without first receiving a written permit for the change from the irrigation company. Violation of this provision constitutes a Class B misdemeanor under this Ordinance.

19. Any person who in any way unlawfully interferes with, injures, destroys, or removes any dam, head gate, weir, casing, valve, cap, pump or other appliance for the diversion, apportionment, measurement, or regulation of water, or who interferes with any person authorized to apportion water while in the discharge of his or her duties, is guilty of a class B misdemeanor under this Ordinance.

20. It shall be unlawful for any person to place or cause to be placed in the Easement, Right-of-Way, channel, bed or bank of any river, stream, wash or other natural drain or within or upon any storm drain, flood control channel, reservoir, detention basin, debris basin, or other property over which the City or irrigation company has an interest, matter of any kind that may operate to impede, retard or change the normal direction of the flow of flood, storm or other waters, or that may catch or collect debris carried by such waters, or that may be carried downstream by such waters to the damage and detriment of adjacent private or public property, or that may degrade the quality of the water, without first obtaining a written permit for such placement from the City and irrigation company. Violation of this provision constitutes a Class B Misdemeanor under this Ordinance.

21. In the event any person violates any of the provisions of this Ordinance and the City takes action to correct the violation in order to protect the health, safety or welfare of its residents or to protect public or private property, the violator shall pay all reasonable costs and expenses incurred by the City (including but not limited to reasonable charges for use of City equipment and employees plus ten percent (10%) overhead) when invoiced by the City. Failure to pay within thirty (30) days of invoice shall cause the amount due to bear interest at eighteen percent (18%) per annum from the invoice date until paid, plus attorney fees and costs incurred by the City in collecting the same.



**ORDINANCE 17-09**  
**AN ORDINANCE PRESERVING THE**  
**SAFETY AND ALLOWING FOR MAINTENANCE OF ~~IRRIGATION~~-CONVEYANCE**

WHEREAS, Nibley City has an ownership interest in all irrigation companies within the City; and

WHEREAS, Nibley residents rely on free-flowing and clean conveyances for the conveyance of irrigation water to agricultural and rural landscapes, and also for the conveyance of City stormwater; and

WHEREAS, unobstructed conveyances are critical to controlling flooding of private and public property within the City, and, in some cases, are integral parts of the City's historic stormwater infrastructure; and

WHEREAS, open conveyances provide critical wildlife habitat and corridors, opportunities for connectivity and recreation, ~~and~~ are an integral part of the rural landscape, and in Nibley, provide the primary means of controlling groundwater levels in the City; and

WHEREAS, water rights are privately held property and the diversion, distribution, delivery, and use of irrigation waters existed prior to the establishment of Nibley City, and much of the City's subsequent residential development; and

WHEREAS, agricultural irrigation and its conveyance corridors are critical to the sustainability of agricultural land uses in the community, and the preservation of desirable rural characteristics; and

WHEREAS, increased development pressure is impeding conveyance owners' ability to maintain the infrastructure such that it can function for its intended purposes of irrigation delivery ~~and~~ flood control ~~and irrigation delivery~~; and

WHEREAS, Nibley City has certain contractual obligations with respect to the Nibley Blacksmith Fork Irrigation Company (NBFI); and

WHEREAS, Nibley City has the authority to establish policies to control the impact of development on commonly held assets and resources within the City.

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

1. The attached ordinance, titled "AN ORDINANCE PRESERVING THE SAFETY AND ALLOWING FOR MAINTENANCE OF ~~IRRIGATION~~-CONVEYANCE" is hereby 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 \_\_\_\_\_,  
~~2016~~2017.

\_\_\_\_\_  
Shaun Dustin, Mayor

ATTEST:

\_\_\_\_\_  
City Recorder

**ORDINANCE 17—09**  
**AN ORDINANCE PRESERVING THE**  
**SAFETY AND ALLOWING FOR MAINTENANCE OF IRRIGATION CONVEYANCE**

1. Conveyance as used in this Ordinance includes surface water runoff and drainage, drainage ditches and irrigation waterways, whether surface or subsurface, and includes open canals or ditches as well as piped waterways.

2. Rights-of-Way or Right-of-Way as used in this Ordinance shall refer to land dedicated to the City, for use by the public, if the City chooses, as open space, park space or trails; and for the use of the irrigationConveyance company and City for conveying of irrigation and stormwater and for the maintenance and repairs of the Conveyance or other infrastructure along the Conveyance. Typically, the underlying land will be publicly owned and will be subject to the Right-of-Way and uses described in this paragraph.

3. Easement, as used in this ordinance, shall refer to legal and permanent access granted along an irrigation conveyance or canal on private land for the use of the irrigation canal company or City for conveying of irrigation and storm water and for the maintenance and repairs of the Conveyance or other infrastructure along the Conveyance.

4. Irrigation companies shall have the right of access to irrigation Conveyance structures, fixtures, features, channels, and pipes as allowed by state law, and as permitted by the easementsEasements and rights-Rights-of-way-Way of such companies.

2.—Primary Canals and Waterways shall be defined for the purposes of the ordinance as all waterways designated by the US Army Corps of Engineers as subject to their regulation, canals designated by canal companies as critical to their ability to deliver water to their customers through filing and delineation in the City GIS, and other natural and constructed canals and structures determined by the City Public Works Director to be critical to the performance of storm drainage systems, including sub-water collection and drainage. The database of Canals and Waterways shall be maintained by the City Public Works Director as a City GIS. Designation of a waterway not so designated by Federal listing or by the Irrigation Company operating the facility under this section may be appealed to the City Council.

3-5. Easements or rightsRights-of-wayWay shall be acknowledged as to the applicable irrigation company and dedicated to the City with all new subdivisions as follows:

a. Applicants shall provide on all subdivisions where an open irrigation Conveyance with 40 cubic feet per second (CFS) capacity or greater Primary Canal or Waterway traverses the subdivision ~~an easement and right~~ Right-of-wayWay of ~~30'-10'~~ 30'-10' from top of each bank to be identified on the preliminary plat and final plat.

~~b. Applicants shall provide on all subdivisions where an open irrigation Conveyance with greater than 20 and less than 40 CFS capacity traverses the subdivision an~~

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~~easement and rights~~ Right of wayWay of 20' to be identified on the preliminary plat and final plat.

~~e. Applicants shall provide on all subdivisions where an open irrigation Conveyance with less than 20 CFS capacity traverses the subdivision an easement and rights~~ Right of wayWay of 15' to be identified on the preliminary plat and final plat.

~~d. Piped irrigation Conveyances shall have a twenty foot (20') easement~~ Right of Way extending (10') either side of centerline for any portion that has been piped.

<u>Capacity of Irrigation Conveyance</u>	<u>Required Right of Way Width</u>
<u>40 CFS or greater</u>	<u>30'</u>
<u>≥ 20 and less than 40</u>	<u>20'</u>
<u>Less than 20</u>	<u>15'</u>
<u>Piped</u>	<u>20'</u>

~~b. Each new subdivision shall dedicate easements or rights~~ Rights-of-wayWay to the City, for use by the public if the City chooses, along ~~open irrigation~~ Conveyances to the City. ~~Irrigation Conveyance easements or rights~~ Rights of wayWay will not count against zoning density requirements when preserved as an open channel or waterway. The company that is responsible for the maintenance of the Conveyance shall also have access to the ~~easement~~ Right-of-Way in order to render service or maintenance to the Conveyance.

~~(1) For subdivisions that require open space, public space, or conservation space; the dedicated right-of-way's acreage along irrigation conveyances shall count toward the development's total open space, public space or conservation space as required by zoning and subdivision code.~~

~~(2) In industrial, commercial, and commercial neighborhood zones, the dedicated right-of-way acreage along irrigation conveyances, if landscaped, shall count towards the percentage of landscaped area as required by Nibley City code as approved by the Planning Commission.~~

~~e.c. Piped conveyances shall be provided with dedicated 20' (twenty foot) access easements extending 10' (ten feet) on either side of the centerline of the pipe for any portion of the conveyance that has been piped. The easement permits access by the entitie(s) responsible for operation and maintenance of the conveyances. Pipe easements shall run with the land, and do not imply or provide right of public access.~~

~~f.d. So far as possible, all dedicated easements~~ Rights-of-Way shall be directly accessible from ~~another~~ public ~~rights~~ Right-of-wayWay and shall provide unobstructed access for service equipment.

~~g.e. Alignment(s) of all easements~~ Rights-of-Way relative to the Conveyance alignment(s) shall be coordinated with the City and Conveyance company.

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~~h.f.~~ Irrigation structures such as boxes, bridges, trash racks, or similar structures or appurtenances which are wider than the open channel or piped Conveyance shall be provided with dedicated ~~easement or right~~Right-of-way no less than 15' beyond the maximum footprint of the structure, but not less than the width of the ~~right~~Right-of-way of the Conveyance upon which the structure is placed.

~~4.6.~~ Setbacks to protect access to ~~irrigation~~ Conveyance structures, fixtures, features, channels, or pipes shall be established on all new construction for emergency and maintenance activities, and to provide safety to structures near waterways.

a. Open Conveyances shall be provided a setback of fifteen-feet (15') measured from the top of the inside bank of the canal for a conveyance on level ground, from the top of the cut slope on the uphill side for a canal cut into a slope, or from the toe of the canal bank slope on the downhill side, whichever is greater. ~~;~~ ~~and p~~ Piped Conveyances shall be provided a 10' setback measured from the center of the pipe.

b. Setbacks shall apply to all primary and accessory structures, fences, decks or similar features that would otherwise hinder maintenance or emergency access to the Conveyance corridor regardless ~~or not if of whether~~ a permit is required. Agricultural fences and fences required to define the boundary of public access on trails enabled by this ordinance are exempted from this requirement subject to acceptance of the fence placement and design by the City Public Works Director or their designee.

~~e.~~—The City will not require permits for existing fences or structures or permanent improvements within the fifteen-foot (15') setback if such were legal under Nibley City Ordinances when such structures were constructed. The City may at its discretion or at the request of the owner of the easement or right of way require an engineering report prior to permitting remodel or replacement of existing fences or structures.

~~d.c.~~ Nibley City will not issue building, fence, grading or other permits that would limit, hinder, infringe or encroach upon any established ~~irrigation canal easement~~Easement, Right-of-Way or setback by deed, use or otherwise for access to or maintenance of the canals and waterways within the City.

~~e.d.~~ If these setback requirements conflict with other City Ordinances, agreements, franchise or other document governing setbacks provisions, the greater setback requirement shall prevail.

~~5.~~—~~For changes in land use, including but not limited to building permits, new subdivisions, rezones, annexations, and development:~~

~~a.~~—~~Nibley City shall condition approval upon the formal recording of any reasonable irrigation Conveyance easements for access, maintenance, and public safety.~~

~~b. Easements for irrigation Conveyances and for access to the same within any new subdivision shall be required for approval of any proposed subdivision.~~

e.7. ~~The~~ For changes in land use, including but not limited to building permits, new subdivisions, rezones, annexations, and development the City may require Preliminary Plats or other applications/petitions to be submitted to canal or irrigation companies who may be impacted by the subdivision for review, comment and/or approval.

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6-8. The City adopts the following conditions and requirements with respect to any land use change, development, or improvement that may impact any NBFI irrigation Conveyance structures, fixtures, features, channels, pipes, or access routes and which, at the discretion of the City Manager, in consultation with the Mayor, may be applied to and required for other irrigation Conveyance structures, fixtures, features, channels, pipes, or access routes within the City prior to any land use change, development or improvement:

a. Authorization for New Storm Water Inlet Structures and Outlet Structures. No new or additional Storm Water Inlet Structures and Outlet Structures and no increases in the flow of such inlets or outlets beyond the Current Discharge as defined by an Agreement between the City and NBFI shall be created or maintained except in conformance with the following procedure.

(1) The City, a landowner, or a developer may at any time contact NBFI to evaluate the potential for new Inlet Structures and Outlet Structures, or the potential for an increase in the capacity of any existing Inlet Structure or Outlet Structure.

(2) The City, a landowner, or a developer shall provide a written request to NBFI for each additional Storm Water Inlet Structure or Outlet Structure and for increases in flow beyond the Current Discharge or any previously approved increase for existing Inlet Structures or Outlet Structures. The request shall be accompanied by the following:

(i) Drawings in both digital and printed copy showing the location, size, and design specifications of each Inlet Structure or Outlet Structure proposed to be added or increased.

(ii) Drawings showing the drainage area to be served by the Inlet Structure.

(iii) Expected occurrences that will cause Storm Water inflow into the irrigation Conveyance, including an estimate of the time of year during which maximum inflows are expected, subject to subsection (iv) below.

(iv) An estimate of the maximum inflow to be expected from the area to be served by the Inlet Structure (with the understanding that the maximum flow may not exceed the flow allowed by Current Design Standards). This rate is determined by completing a hydrologic analysis based on soil types to determine the

runoff rates prior to any land use change, development or improvement for sites greater than 1 acre, or by assuming a historical runoff rate of 0.1 CFS per acre for sites smaller than 1 acre.

(v) Written disclosure of whether the Storm Water discharge to the irrigation Conveyance is expected to contain any Pollutant regulated under the Utah Clean Water Act and implementing regulations thereof.

(vi) Certification that the City, landowner or developer has complied and will comply with all applicable requirements of the Utah Water Quality Act and associated regulations.

(vii) Any additional documentation or information reasonably requested by NBFi.

b. Any objections of any kind by NBFi to a new proposed Inlet Structure, Outlet Structure, or the enlargement of either, shall be given by written notice within sixty (60) days after receipt by NBFi of the written request for the same from the City, landowner or developer. NBFi shall have the right to refuse such approval only if, as demonstrated by empirical data:

(1) in the case of a new Inlet Structure or enlargement of an existing Inlet Structure, water inflow into the Conveyance from such inlet will exceed the Current Discharge into the Conveyance from the drainage area to be served by such inlet;

(2) the inflows are found by a City-County Health Department or other State, County or federal agency to be physically harmful to animals, crops of any kind, or any other beneficial use of the water; or

(3) the proposed Inlet Structure or Outlet Structure will diminish the ability to utilize all of the water to which NBFi is entitled under its water rights, hinder water deliveries, or alter, damage or obstruct, diversion structures, measuring devices, or regulating headgates on the Conveyance.

c. If NBFi does not provide written objections within sixty (60) days after receipt of the City's, landowner's, or developer's written request, NBFi shall be deemed to have approved the additional Inlet Structure, Outlet Structure, or increase in capacity of either.

d. If the request for additional Inlet Structures, Outlet Structures or increase in capacity of an inlet or outlet is not agreed to, NBFi shall work with the City, landowner or developer in an attempt to reach an equitable resolution in order to provide for the same.

e. If the additional Inlet Structure, Outlet Structure or increase in flow is formally approved or deemed approved as provided herein, the City shall allow commencement of construction or modification only after a written Agreement has been agreed-to, signed by the City, landowner or developer and NBFi.

f. The City shall require, as a condition to any land use change, development or improvement approval, that infrastructure (such as fencing or other improvements) be installed by a landowner or developer as part of a land development project, when reasonably determined by the City to be necessary.

g. Landowners or developers of any land within the City must include with their plans and specifications a storm water plan that provides for all storm water to be handled at the site of such ~~any~~ land use change, development, or improvement except as may be otherwise approved by the City and NBFJ.

h. Trash Racks. The City shall require landowners or developers to install, in connection with City-approved land use changes, development plans, or improvements, trash racks and inlet grates, to the design standard set by the City and NBFJ, on all Inlet Structures so as to prevent clogging of the headgates, screens and pipelines situated within the Conveyance.

~~7.9.~~ If any landowner or developer of any land proposes any piping of an open Conveyance such as a canal or ditch, the construction of bridges or retaining walls, fences within the setback, the installation of culverts, or any other action which may in any way affect a ~~conveyance~~ Conveyance or access to the Conveyance, the City shall require that the plans and specifications be delivered to the irrigation company, and that the irrigation company consent to the same, in writing, prior to the approval by the City of such land development ~~by the City~~, which consent or the basis for denying such consent shall be given by the irrigation canal company within sixty (60) days after receipt of the request for approval. If the irrigation canal company does not provide a written objection within sixty days after receipt of the request, the request will be deemed to have been approved.

~~8.10.~~ Alteration of irrigation Conveyance structures, fixtures, features, channels, or pipes, including grading, modification, contouring or removal of vegetation or soil of banks ~~of~~ canals or other irrigation Conveyance ~~easements~~ Easements or ~~rights~~ Rights-of-way Way, shall ~~only~~ be done only by the irrigation company, or pursuant to a written permit issued by the irrigation company.

~~9.11.~~ Vested rights in the established irrigation ~~easements~~ Easements or ~~rights~~ Rights-of-way Way for both Conveyance of water and for access and maintenance of the irrigation structures or channels or pipes shall be protected against all encroachments and no improvements shall be erected that interfere with the same and the City shall issue no permits for improvements that interfere with the same.

~~10.12.~~ Conditions to use of canals for storm water discharge and Conveyance:

a. The right to convey storm water in the canal extends to all times of the year and is not affected by the fact that during the irrigation season the irrigation canal company is operating the canal for the transportation and delivery of irrigation water to the irrigation canal company's shareholders, subject to the following:

(1) The use of the canal by the City extends only so far as the canal exists in its present state, and only to the extent of such rights as the ~~irrigation canal~~ company shall have in the canal. The ~~irrigation canal~~ company cannot authorize the City to expand the canal capacity in order to convey additional stormwater beyond that stormwater already authorized and agreed to between the ~~irrigation canal~~ company and the City.

(2) At all times, the Conveyance of irrigation water under water rights owned by the ~~irrigation canal~~ company shall have first priority in terms of the use and capacity of the canal.

(3) In evaluating the capacity of the canal as part of the City's Storm Water management program, the capacity shall be measured at the most restrictive location on the canal.

~~11.13.~~ A civil action for damages or declaratory relief to require a party to comply with this ordinance may be brought by the City or any person injured by another's actions in violation of this ordinance. Such civil action may be brought independent of any criminal action.

~~12.14.~~ If the Land Use Authority decision with respect to any land use application adversely affects an applicant, a board or officer of the City, or any other person or organization adversely affected by the Land Use Authority's decision under this Ordinance, the affected person or organization may file an appeal with the City's Appeal Authority only as provided in Section 10-3-3 of the Nibley City Code, Appealing Land Use Authority's Decision.

~~13.15.~~ It is unlawful for any person to place any pole, board or other obstruction whatsoever, or any trash, yard waste or other waste material, other than irrigation water, in any Conveyance structure, channel, or pipe for any purpose, or in any manner to interfere with the free and unobstructed flow of water in such Conveyance structure, channel, or pipe. Violation of this provision constitutes a Class B misdemeanor under this Ordinance.

~~14.16.~~ It shall be unlawful to willfully or maliciously alter, break, or injure any dam, irrigation Conveyance structures, fixtures, features, channels, pipes, or to dig away the bank or banks of any ditch, canal, toe of side slop or reservoir within the Nibley City boundaries. Violation of this provision constitutes a Class B misdemeanor under this Ordinance.

~~15.17.~~ Whenever any irrigation company has an ~~easement~~Easement or ~~right~~Right-of-way-Way for any irrigation Conveyance, it shall be unlawful for any person to place or maintain in place any obstruction, or to change the water flow by fence or otherwise, along or across or in any irrigation Conveyance structures, fixtures, features, channels, or pipes, without first receiving a written permit for the change from the irrigation company. Violation of this provision constitutes a Class B misdemeanor under this Ordinance.

~~16.18.~~ Any person who in any way unlawfully interferes with, injures, destroys, or removes any dam, head gate, weir, casing, valve, cap, pump or other appliance for the diversion,

apportionment, measurement, or regulation of water, or who interferes with any person authorized to apportion water while in the discharge of his or her duties, is guilty of a class B misdemeanor under this Ordinance.

~~17.19.~~ It shall be unlawful for any person to place or cause to be placed in the ~~easement~~Easement, Right-of-Way, channel, bed or bank of any river, stream, wash or other natural drain or within or upon any storm drain, flood control channel, reservoir, detention basin, debris basin, or other property over which the City or irrigation company has an interest, matter of any kind that may operate to impede, retard or change the normal direction of the flow of flood, storm or other waters, or that may catch or collect debris carried by such waters, or that may be carried downstream by such waters to the damage and detriment of adjacent private or public property, or that may degrade the quality of the water, without first obtaining a written permit for such placement from the City and irrigation company. Violation of this provision constitutes a Class B Misdemeanor under this Ordinance.

~~18.20.~~ In the event any person violates any of the provisions of this Ordinance and the City takes action to correct the violation in order to protect the health, safety or welfare of its residents or to protect public or private property, the violator shall pay all reasonable costs and expenses incurred by the City (including but not limited to reasonable charges for use of City equipment and employees plus ten percent (10%) overhead) when invoiced by the City. Failure to pay within thirty (30) days of invoice shall cause the amount due to bear interest at eighteen percent (18%) per annum from the invoice date until paid, plus attorney fees and costs incurred by the City in collecting the same.

**RESOLUTION 17-11**

**A RESOLUTION ESTABLISHING THE POLLING PLACE, APPOINTING POLL WORKERS AND SETTING THE RATE OF PAY FOR THEIR SERVICE**

BE IT RESOLVED BY THE NIBLEY CITY COUNCIL THAT:

1. The polling place for the 2017 Municipal Primary and General Elections shall be Nibley City Hall, located at 455 West 3200 South in Nibley.
2. The following persons are appointed as poll workers for the August 15, 2017 Municipal Primary Election and November 7, 2017 Municipal General Election:

Cheryl Bodily  
Nancee Jabbs  
Reina Forsythe  
Valerie Steadman

Lisa Ward  
Brittany Hawkes  
Corynn Falslev  
Stephen Nelson

2. Poll workers shall be paid \$ 10.00 per hour.
3. Attendance at training meetings shall be compensated at a rate of \$10.00 per hour or portion thereof.

This resolution shall be effective on the date it is adopted.

APPROVED AND ADOPTED by the Nibley City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Shaun Dustin, Mayor

ATTEST

\_\_\_\_\_  
David Zook, City Recorder