



CITY OF ELKO  
CITY MANAGER  
1751 COLLEGE AVENUE  
ELKO, NEVADA 89801  
(775) 777-7110/FAX (775) 777-7119

The Elko City Council will meet in regular session on Tuesday, June 22, 2021  
at 4:00 P.M., P.D.T. at the Elko City Hall, 1751 College Avenue, Elko, Nevada,  
and by utilizing <https://global.gotomeeting.com/join/696054677>

Please join the meeting from your computer, tablet or smartphone.

[GoToMeeting.com](https://global.gotomeeting.com/join/696054677)

<https://global.gotomeeting.com/join/696054677>

You can also dial in using your phone +1 (872) 240-3412 Access Code: **696-054-677**

Attached with this notice is the agenda for said meeting of the Council.

In accordance with NRS 241.020, the public notice and agenda was posted on the City of Elko  
Website, <http://www.elkocitynv.gov> the State of Nevada's Public Notice Website,  
<https://notice.nv.gov> and in the following locations:

**ELKO CITY HALL**

1751 College Avenue, Elko, Nevada 89801

**Date & Time Posted: Thursday, June 17, 2021 at 8:30 A.M.**

**ELKO COUNTY COURTHOUSE**

571 Idaho Street, Elko, NV 89801

**Date and Time Posted: Thursday, June 17, 2021 at 8:40 A.M.**

**ELKO POLICE DEPARTMENT**

1448 Silver Street, Elko, NV 89801

**Date and Time Posted: Thursday, June 17, 2021 at 8:50 A.M.**

**ELKO COUNTY LIBRARY**

720 Court Street, Elko, NV 89801

**Date and Time Posted: Thursday, June 17, 2021 at 9:00 A.M.**

Posted by: **Diann Byington** Recording Secretary

The public may contact Kim Wilkinson by phone at (775) 777-7110 or email at [kwilkinson@elkocitynv.gov](mailto:kwilkinson@elkocitynv.gov) to request supporting material for the meeting described herein. The agenda and supporting material is available at Elko City Hall, 1751 College Avenue, Elko, NV or on the City website at <http://www.elkocity.com>

*Dated this 17<sup>th</sup> day of June, 2021*

**NOTICE TO PERSONS WITH DISABILITIES**

Members of the public who are disabled and require special accommodations or assistance at the meeting are requested to notify the Elko City Council, 1751 College Avenue, Elko, Nevada 89801, or by calling (775) 777-7110.

Curtis Calder, City Manager  
Elko, Nevada

**CITY OF ELKO**  
**CITY COUNCIL AGENDA**  
**REGULAR MEETING**  
**4:00 P.M., P.D.T.**  
**TUESDAY, JUNE 22, 2021**  
**ELKO CITY HALL, CHAMBERS**  
**1751 COLLEGE AVENUE, ELKO, NEVADA**  
**<https://global.gotomeeting.com/join/696054677>**

**CALL TO ORDER**

The Agenda for this meeting of the City of Elko City Council has been properly posted for this date and time in accordance with NRS requirements.

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**COMMENTS BY THE GENERAL PUBLIC**

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

**APPROVAL OF MINUTES:**                      **June 8, 2021**                      **Regular Session**

**I.        PRESENTATIONS**

- A.      Presentation of an appreciation plaque by Mayor Keener in recognition of Urijah Lortie, for his generous donation to the City of Elko Animal Shelter, and matters related thereto. **INFORMATION ONLY – NON ACTION ITEM**
- B.      Presentation of a proclamation by the Mayor in recognition of August 3, 2021 as “National Night Out”, and matters related thereto. **INFORMATION ONLY – NON ACTION ITEM**
- C.      Presentation of the 2021 Public Works Year in Review, and matters related thereto. **INFORMATION ONLY – NON ACTION ITEM**

**II.      PERSONNEL**

- A.      Review, consideration, and possible approval of revisions to the position description for Animal Control Officer, and matters related thereto. **FOR POSSIBLE ACTION**

The Animal Control Officer position description has been revised and updated to accurately reflect the duties and requirements of the position. SS

### III. APPROPRIATIONS

- A. Review and possible approval of Warrants, and matters related thereto. **FOR POSSIBLE ACTION**
- B. Review and possible ratification of General Hand-Cut Checks, and matters related thereto. **FOR POSSIBLE ACTION**
- C. Review, consideration, and possible issuance of final acceptance for the Alley Water Line Replacement between 4<sup>th</sup>, 5th, Commercial & Silver Streets, and matters related thereto. **FOR POSSIBLE ACTION**

Great Basin Engineering has completed the work for the alley project. Staff recommends the issuance of final acceptance. There was one change order for \$9,532.70 for standby time and additional quantity adjustments for \$4,810.35 for materials. The original contract amount was \$159,220.91 plus the addition of Change Order # 1 and the quantity adjustments for a combined amount of \$14,343.05, bringing the total project cost to \$173,563.96. DJ

- D. Review and possible approval of the Elko Regional Airport Liability Insurance Policy for FY 2021/2022, and matters related thereto. **FOR POSSIBLE ACTION**

LP Insurance Services, Inc. has competitively sought airport liability insurance proposals for this coming fiscal year. Two (2) quotes were received. Last year AIG Aerospace was our provider for the same coverage amount at \$10,834.00 / year. JF

### IV. NEW BUSINESS

- A. Review, consideration, and possible approval of a Deed of Dedication for Right-of-Way, Public Utilities, and Slope Easement on APN 001-770-005, and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko has been engaging the property owners of the referenced APN to acquire the necessary dedications for utility infrastructure which will be utilized as a second water source for the regional hospital. The proposed dedications will also facilitate proper roadway development and utility infrastructure for the Elko Mountain area east of State Route 227 and the area adjacent to the regional hospital on the west side of State Route 227. MR

- B. Review, consideration, and possible approval of a Grant of Easement for Utilities and Access on APN 001-630-100, and matters related thereto. **FOR POSSIBLE ACTION**

The purpose of this proposed easement is to allow for the installation of an alternate sewer line to serve parcels along the future eastern extension of Silver Street to

Manzanita Lane. This new sewer line would connect to an existing sewer along the railroad tracks at the southeasterly edge of this parcel. The existing sewer at the intersection of Silver Street and Walters Court is approximately 20' deep, making the extension of sewer from that location more difficult for both developers and the City. This easement request is in conjunction with a waiver of sewer installation for one or more lots on Silver Street to be presented separately. MR

- C. Review, consideration, and possible approval of a request to waive the requirement to extend sanitary sewer across the frontage of 1515 Silver Street (APN 001-375-001), and matters related thereto. **FOR POSSIBLE ACTION**

The up gradient properties will be serviced by another sewer main. The extension of this sewer main is unlikely to serve any new customers in the future based on currently available planning and development projections. Future sewer customer's will service through the Capps sewer easement crossing their Silver Street Property back to the main transmission line to the WRF. DJ

- D. Review and possible approval of the City of Elko Investment Policy, and matters related thereto. **FOR POSSIBLE ACTION**

Staff will present the City of Elko Investment Policy for City Council consideration  
JB

- E. Review and possible selection of a planning firm to provide planning services for a focused planning study at the Elko Regional Airport, and matters related thereto. **FOR POSSIBLE ACTION**

The airport has been conducting a search for a planning firm to provide services at the airport for an upcoming AIP funded project for a Focused Planning Study. The selection committee short listed four (4) firms to continue with the interview portion of the process. The interviews were held May 26/27, 2021. The Airport selection committee interviewed four (4) engineering/planning firms: Coffman Associates, Jviation Inc, Kimley-Horn and Farr West Engineering. The selection committee recommends that the Council select Coffman Associates for the focused planning study service contract. Upon selection, Staff will negotiate a Professional Services Agreement with the successful firm. This new agreement will be brought back to Council for review and approval. JF

- F. Consideration and possible authorization for Staff to advertise for four (4) vacant positions on the Parks and Recreation Advisory Board, and matters related thereto. **FOR POSSIBLE ACTION**

On June 30, 2021 the terms of four (4) board members will expire. All members are eligible for reappointment following an advertisement related to the term's expiration. JW



## **V. RESOLUTIONS AND ORDINANCES**

- A. First reading of proposed Ordinance 863 amending Elko City Code Title 9, Chapter 6 (Illegal Discharge and Connection to Stormwater), Chapter 7 (Construction Site Runoff Control), and Chapter 8 (Postconstruction Runoff Control and Water Quality Management), and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko Stormwater Program was audited by the Nevada Department of Environmental Protection and the Environmental Protection Agency in August 2020. One of the findings of that audit was that current enforcement regulations were lacking in both clarity and implementation. As a result, the audit report required the City to update its stormwater codes with enhanced enforcement procedures. Other modifications have been proposed to clarify existing policies and procedures. MR

- B. Review, consideration, and possible approval of Resolution No. 18-21, a resolution providing for the transfer of appropriations between accounts within the City of Elko 2020/2021 Fiscal Budget pursuant to N.R.S. 354.598005, and matters related thereto. **FOR POSSIBLE ACTION**

This is the annual year-end housekeeping item to transfer funds between functions, and funds as required to fund all budgetary changes that occurred during the fiscal year. JB

## **VI. PETITIONS, APPEALS, AND COMMUNICATIONS**

- A. Review, consideration, and possible action to accept a petition for the vacation of a 13,600 square foot portion of the 15<sup>th</sup> Street Right-of-Way, filed by the City of Elko, and processed as Vacation Nos. 3-21 and 4-21, and matters related thereto. **FOR POSSIBLE ACTION**

Staff has determined that keeping the small amount of Right-of-Way on 15<sup>th</sup> Street is not in the best interest of the City due to the cost of constructing and maintaining a road that goes nowhere. Staff approached both adjacent property owners about the possibility of vacating the Right-of-Way back to them, to which they agreed. Because there are utilities in the area to be vacated, an easement will need to be recorded to allow future access. In addition, a Reciprocal Easement Agreement between the property owners is also required. MR

- B. Review, consideration, and possible action to vacate seven feet of the southwesterly portion of Golf Course Road for approximately 294 lineal feet northwest from the intersection of College Ave. and Golf Course Road involving 2 properties, filed by City of Elko and processed as individual Vacations 1-21 and 2-21, and matters related thereto. **FOR POSSIBLE ACTION**

In discussion with the proposed Great Basin Child Advocacy Center, staff requested that the new curb, gutter and sidewalk line up with existing infrastructure at the intersection of Cedar St. and Golf Course Rd. This vacation will align the

right-of-way from College Ave. to Cedar Street where it currently is not aligned.  
CL

- C. Review and consideration of a request from Ms. Yvonne Samper regarding the lack of a handicap access sidewalk at 307 Elm St., and matters related thereto. **FOR POSSIBLE ACTION**

A copy of Ms. Samper's letter has been enclosed in the agenda packet for review.  
CC

## **VII. 5:30 P.M. PUBLIC HEARINGS**

- A. Second reading and possible adoption of Ordinance No. 862, an Ordinance adopting a requirement for a Nonpublic Hospital License and Establishing a License Fee, and matters related thereto. **FOR POSSIBLE ACTION**

On April 27, 2021, the City Council voted to initiate an ordinance which would create a "Local Hospital Licensure Fee." As a result of that action, City Staff has drafted Ordinance No. 862 for review. A copy of the proposed Ordinance has been enclosed in the agenda packet for review. CC

## **VIII. REPORTS**

- A. Mayor and City Council
- B. City Manager
- C. Assistant City Manager
- E. Public Works
- F. Airport Manager
- G. City Attorney
- H. Fire Chief
- I. Police Chief
- J. City Clerk
- K. City Planner
- L. Development Manager
- M. Financial Services Director
- N. Parks and Recreation Director
- O. Civil Engineer
- P. Building Official

## **COMMENTS BY THE GENERAL PUBLIC**

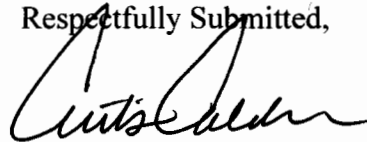
Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

**NOTE:**

The Mayor, Mayor Pro Tempore, or other Presiding Officer of the City Council reserves the right to change the order of the agenda, and if the agenda has not been completed, to recess the meeting and continue on another specified date and time. Additionally, the City Council reserves the right to combine two or more agenda items, and/or remove an item from the agenda, or delay discussion relating to an item on the agenda at any time.

**ADJOURNMENT**

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Curtis Calder", written over the words "Respectfully Submitted,".

Curtis Calder  
City Manager

City of Elko )  
County of Elko )  
State of Nevada )

SS June 8, 2021

The City Council of the City of Elko, State of Nevada met for a regular meeting beginning at 4:00 p.m., Tuesday, June 8, 2021. The meeting was held in the council chambers, 1751 College Ave., Elko and via GoTo Meeting.

This meeting was called to order by Mayor Reece Keener. The public can participate in person, by phone, tablet, laptop, or computer by registering with the GoTo Meeting link provided in the agenda. Questions can be sent to [cityclerk@elkocitynv.gov](mailto:cityclerk@elkocitynv.gov).

## **CALL TO ORDER**

## **ROLL CALL**

**Council Present:** Mayor Reece Keener  
Councilman Chip Stone (*via GoToMeeting*)  
Councilman Clair Morris

**Council Absent:** Councilwoman Simons  
Councilman Bill Hance

**City Staff Present:** Curtis Calder, City Manager  
Kelly Wooldridge, City Clerk  
Candi Quilici, Accounting Manager  
Jan Baum, Financial Services Director  
Susie Shurtz, Human Resources Manager  
Dennis Strickland, Public Works Director  
Dale Johnson, Utilities Director  
Cathy Laughlin, City Planner  
Jim Foster, Airport Manager  
Matt Griego, Fire Chief  
Jack Snyder, Deputy Fire Chief  
Ty Trouten, Police Chief  
Dave Stanton, City Attorney  
Michele Rambo, Development Manager  
James Wiley, Parks and Recreation Director  
Bob Thibault, Civil Engineer  
DJ Smith, Computer Information Systems Coordinator  
Diann Byington, Recording Secretary

## **PLEDGE OF ALLEGIANCE**

## **COMMENTS BY THE GENERAL PUBLIC**

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item

on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

*There were no public comments.*

**APPROVAL OF MINUTES:      May 25, 2021      Regular Session**

*The minutes were approved by general consent.*

**I.      PRESENTATIONS**

- A.      Presentation of an Appreciation Plaque by the Mayor, in recognition of Eurijah Lortie for his generous donation to the City of Elko Animal Shelter, and matters related thereto. **INFORMATION ONLY – ACTION WILL NOT BE TAKEN**

This item was not heard due to Mr. Eurijah Lortie being out of town.

- B.      Presentation of the 2020 Public Works Year in Review, and matters related thereto. **INFORMATION ONLY – ACTION WILL NOT BE TAKEN**

This item was not heard.

- C.      Brief presentation and possible acceptance of a renewal proposal from Nevada Public Agency Insurance Pool (POOL), and approval of invoice for payment from FY 2021/2022 Funds in the amount of \$587,902, and matters related thereto. **FOR POSSIBLE ACTION**

As a member of the Insurance Pool, the City of Elko owns a share of the equity that forms the basis for its financial strength.

Your agenda packet includes an overview of coverage offered for the following Fiscal Year. The City of Elko's total program costs for FY 2021/2022 are \$587,902, representing a 14.1% increase over FY 2020/2021. CC

Curtis Calder, City Manager, introduced Alan Kalt, POOL/PACT and Dain Uriarti, LP Insurance.

Dain Uriarti, LP Insurance, explained there is an increase this year. He has seen the increases even higher in the private market. He created a loss ratio spreadsheet that shows premiums, date in and date claims paid out. The 3-year loss ratio for the City is 41%. The 5-year loss ratio is 59%. He felt this could be improved but the City is within the average.

Alan Kalt, POOL/PACT, gave a presentation (included in the packet).

Mayor Keener mentioned the Nevada League of Cities is having a retreat in Elko next week and invited Mr. Kalt to attend.

**\*\* A motion was made by Councilman Stone, seconded by Councilman Morris, to accept the renewal proposal from Nevada Public Agency Insurance Pool (POOL) for the Fiscal Year 2021/2022, in the amount of \$587,902.**

**The motion passed unanimously. (3-0)**

## **II. PERSONNEL**

### **A. Employee Introductions:**

1.) Logan Gibbs, Patrol Officer II, Police Department

*Present and introduced.*

2.) Rachel Hooper, Animal Shelter Worker I

*Present and introduced.*

3.) Dustin Amatori, Lead Golf Maintenance Technician

*Not present.*

## **III. APPROPRIATIONS**

### **A. Review and possible approval of Warrants, and matters related thereto. FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilman Morris, seconded by Councilman Stone, to approve the general warrants in the amount of \$1,194,682.99.**

***The motion passed unanimously. (3-0)***

### **B. Review and possible ratification of General Hand-Cut Checks, and matters related thereto. FOR POSSIBLE ACTION**

**\*\* A motion was made by Councilman Morris, seconded by Councilman Stone, to approve the hand-cut checks in the amount of \$245,139.41.**

***The motion passed unanimously. (3-0)***

### **C. Review, consideration, and possible authorization for Staff to solicit bids for the construction of curb, gutter, sidewalk, and paving on Jennings Way as illustrated in the attached plans, and matters related thereto. FOR POSSIBLE ACTION**

This is a missing piece of infrastructure that is going to provide drainage as well as providing pedestrian access from the Connolly Subdivisions to Adobe Middle School. We will only be constructing the section that is on the west side of Jennings Way as illustrated in the attached plans. DS

Dennis Strickland, Public Works Director, explained this is an infill project. We have had some concerns brought forward in the past where we have this missing infrastructure. We are expecting more foot traffic to and from Adobe Middle School. This project will allow for that missing infrastructure to be installed. There is plenty of money in the fund to execute on this project.

**\*\* A motion was made by Councilman Stone, seconded by Councilman Morris, to authorize staff to solicit bids for the Jennings Way Sidewalk, Curb and Gutter Improvements.**

*The motion passed unanimously. (3-0)*

- D. Review, consideration, and possible award of the Public Works Department Preventive Maintenance Project 2021, to apply Micro Slurry Seal to select City streets, and matters related thereto. **FOR POSSIBLE ACTION**

At their March 23, 2021 meeting, Council authorized Staff to solicit bids for the Preventive Maintenance Project 2021. Bids were received until 1:00 p.m. on June 1, 2021. Only one bid was submitted. DS

Mr. Strickland explained the City has a great working relationship with this company. They have done this project for a number of years now. Their price was about \$0.05 a square yard cheaper than it was last year. They gave us a great bid. He recommended award.

**\*\* A motion was made by Councilman Stone, seconded by Councilman Morris, to award the base bid for the Public Works Department Street Maintenance Project 2021 to Sierra Nevada Construction in the amount of \$560,782.**

*The motion passed unanimously. (3-0)*

- E. Review, consideration, and possible authorization for Staff solicit bids for the construction of VFW Drive from Idaho Street to Silver Street, and matters related thereto. **FOR POSSIBLE ACTION**

The new Elko Police Department Building was constructed in approximately 2015. At that time, VFW Drive was repaved to fit in the existing easement granted by Union Pacific Railroad. Since that time, Staff has acquired, from Union Pacific Railroad, the additional Right-of-Way to fully construct VFW Drive, including curb, gutter, sidewalk, and additional paving. DS

Mr. Strickland explained when the PD was done, they didn't have great access to the facility. They went in and built 24 feet of asphalt. It is important to finish that work. It provides pedestrian access to and from the PD. It will also help with drainage. He recommended approval.

**\*\* A motion was made by Councilman Morris, seconded by Councilman Stone, to authorize staff to solicit bids for the construction of VFW Drive from Idaho Street to Silver Street.**

*The motion passed unanimously. (3-0)*

- F. Review, consideration, and possible authorization for Staff purchase a new Caterpillar Backhoe model 420-07 C from Cashman Equipment Company through Sourcewell Purchasing in the amount of 108,491.00, and matters related thereto. **FOR POSSIBLE ACTION**

This purchase was approved in the FY 2021/22 Budget. DS

Mr. Strickland explained the Sourcewell Program benefits the City in many ways. He looked at other backhoes from other vendors and they were all similarly priced to this piece of equipment. It is \$8,491 over what we had budgeted but in visiting with Cashman, he is hoping to bring back another Sourcewell option for the motor grader. That one will come in under budget and it will be enough to cover the overage on this one.

**\*\* A motion was made by Councilman Stone, seconded by Councilman Morris, to authorize staff to purchase a new Caterpillar Backhoe model 420-07 C from Cashman Equipment Company through Sourcewell Purchasing in the amount of \$108,491.**

*The motion passed unanimously. (3-0)*

#### **IV. SUBDIVISIONS**

- A. Review, consideration, and possible approval of Final Map No. 2-21, filed by Jordanelle Third Mortgage, LLC, for the development of a subdivision entitled Zephyr Heights Unit 1 involving the proposed division of approximately 25.1 acres of property into 18 lots for residential development and 1 remainder lot within the R (Multiple-Family and Single-Family Residential) Zoning District, and matters related thereto. **FOR POSSIBLE ACTION**

Subject property is located on the east side of East Jennings Way generally east of Puccinelli Parkway. (APN 001-562-010). The Planning Commission considered this item on June 1, 2021, and took action to forward a recommendation to conditionally approve Final Map 2-21. MR

Michele Rambo, Development Manager, explained this is Unit 1 of the Zephyr Heights Subdivision. There are 11 findings in the report to support the conclusion that the Final Map is in compliance. There are 14 conditions that have been placed on it. She recommended conditional approval.

Scott MacRitchie, Jordanelle Third Mortgage, said he could not make it to town for the meeting. They are excited to get started on this project.

**\*\* A motion was made by Councilman Stone, seconded by Councilman Morris, to conditionally approve Final Map No. 2-21 for the Zephyr Heights Unit 1 Subdivision, subject to the findings and conditions as recommended by the Planning Commission.**

*The motion passed unanimously. (3-0)*

#### **V. NEW BUSINESS**

- A. Review, discussion, and consideration for the possible installation of fitness and exercise equipment at Angel Park, and matters related thereto. **FOR POSSIBLE ACTION**



Staff received a request from Ms. Courtney Nalivka regarding the possible installation of some outdoor exercise and fitness equipment within the Elko Park System. Ms. Nalivka works in our community as a health professional promoting and encouraging fitness and healthy lifestyles. The Parks and Recreation Advisory Board heard the request at the May 20, 2021 meeting, and recommends the Council consider approving the idea of installing equipment at Angel Park, utilizing the space where the former tennis courts were located. JW

James Wiley, Parks and Recreation Director, explained a few months ago, Courtney got in touch with him and they talked about this idea of outdoor fitness equipment. They brought some concepts tonight. Staff was in the process of doing something with the area where they demoed the tennis courts at Angel Park. They were preparing to do something there this budget cycle. This location for the exercise equipment rose to the top. He will work with Bob Thibault to come up with a plan and a design. He thought the funds were in the budget to pull this off. He introduced Courtney Nalivka.

Courtney Nalivka, Registered Dietician, explained her request. She thought this idea of exercise equipment could help encourage people to get out and improve their physical health. She explained some of the conceptual drawings that were included in the packet.

**\*\* A motion was made by Councilman Morris, seconded by Councilman Stone, to approve the idea of installing outdoor fitness exercise equipment at Angel Park and direct staff to prepare a detailed plan and budget for a future final plan in the 2022 fiscal year.**

*The motion passed unanimously. (3-0)*

- B. Review, consideration, and possible approval of a Performance/Maintenance Agreement for subdivision improvements associated with the Zephyr Heights Unit 1 Subdivision, and matters related thereto. **FOR POSSIBLE ACTION**

Elko City Code 3-3-21 requires the subdivider to have executed and filed an agreement between the subdivider and the City for the required subdivision improvements, including stipulations on the timeframe for when those improvements are to be completed, and to post a performance guarantee in accordance with Elko City Code 3-3-22. MR

Michele Rambo, Development Manager, explained the proposed agreement. She recommended approval.

Scott MacRitchie, Jordanelle Third Mortgage, asked if this is the same type of agreement that they have done in the past.

Ms. Rambo answered this is the same agreement they have for his development at Tower Hill.

**\*\* A motion was made by Councilman Stone, seconded by Councilman Morris, to improve a Performance/Maintenance Agreement for subdivision improvements associated with the Zephyr Heights Unit 1 subdivision, and require that the developer enter into the agreement within 30 days.**

***The motion passed unanimously. (3-0)***

- C. Review, consideration and possible action to initiate an amendment to Elko City Code Title 9, Chapter 6 (Illegal Discharge and Connection to Stormwater), Chapter 7 (Construction Site Runoff Control), and Chapter 8 (Postconstruction Runoff Control and Water Quality Management), and matters related thereto. **FOR POSSIBLE ACTION**

The City of Elko stormwater program was audited by the Nevada Department of Environmental Protection and the Environmental Protection Agency in August 2020. One of the findings of that audit was that current enforcement regulations were lacking in both clarity and implementation. As a result, the audit report required the City to update its stormwater codes with enhanced enforcement procedures.

While reviewing the stormwater codes with the City Attorney, it was determined that sections other than enforcement needed numerous modifications. This includes applicability, definitions, specific processes and/or procedures, and responsibility. Modifications to these other provisions have been included as part of this proposed code change. MR

Ms. Rambo explained the proposed code changes. She was in the process of having some ongoing discussions with NDEP that may result in some changes to the ordinance in the next week or so. Before this is brought back for first reading, she will make sure those changes have been made. The Storm Water Advisory Board looked at this earlier in the day and they recommended that this initiation be made.

Mayor Keener said these changes were being driven by the audit. What does this mean to developers and builders?

Ms. Rambo answered if there is a violation, the City has a more detailed process and it helps the developers understand the process more. The requirements are not changing. This changes the enforcement portion. They don't go straight to criminal liability. There is a whole administrative process depending upon the developers'/builders' response.

Dave Stanton, City Attorney, said this all depends upon the severity of the violations. If there is no compliance, these new chapters have more detailed and more specific enforcement provisions.

Kelly Wooldridge, City Clerk, wondered if these changes would require a Business Impact Statement?

Mr. Stanton answered they talked about that and came to the conclusion that this will not impose a new significant burden upon businesses. It clarifies existing requirements.

**\*\* A motion was made by Councilman Morris, seconded by Councilman Stone, to initiate an amendment to the Elko City Code Title 9, Chapter 6 (illegal Discharge and Connection to Stormwater), Chapter 7 (Construction Site Runoff Control), and Chapter 8 (Postconstruction Runoff Control and Water Quality Management).**

*The motion passed unanimously. (3-0)*

## **VI. RESOLUTIONS AND ORDINANCES**

- A. First reading of Ordinance No. 862, an Ordinance adopting a requirement for a Nonpublic Hospital License and Establishing a License Fee, and matters related thereto. **FOR POSSIBLE ACTION**

On April 27, 2021, the City Council voted to initiate an ordinance which would create a "Local Hospital Licensure Fee." As a result of that action, City Staff has drafted Ordinance No. 862 for review. A copy of the proposed Ordinance has been enclosed in the agenda packet for review. CC

Curtis Calder, City Manager, explained this is the first draft of the ordinance. We worked out a lot of the obvious issues we thought we were going to have with the language. We feel good about it at this point but wanted to hear from the hospital.

Steve Simpson, CEO NNRH, said he appreciates everyone taking a look at this.

Zach Fichtenbaum, Austin, TX, said the whole purpose of the licensure fee is to figure out a way to come up with more public funds to draw down more reimbursements for North Eastern Regional Hospital to get paid closer to their costs. Right now there just is not enough state share to draw down enough Medicaid payment to cover all of the costs that the hospitals incur when treating Medicaid patients. This is another vehicle to generate local funds that the City can then transfer to the State to help narrow that cost.

Mayor Keener asked if the only impact will be on the hospital facility.

Mr. Fichtenbaum answered it will only impact hospitals, more specifically, NNRH in our area.

**\*\* A motion was made by Councilman Stone, seconded by Councilman Morris, to conduct first reading of Ordinance No. 862 and direct staff to set the matter for Second Reading, Public Hearing and possible adoption.**

*The motion passed unanimously. (3-0)*

## **BREAK**

## **VII. 5:30 P.M. PUBLIC HEARINGS**

- A. Review, consideration, and possible action to name field # 2 at the Elko Sports Complex after Mr. Hal Hibbert and matters related thereto. **FOR POSSIBLE ACTION**

The Council reviewed a petition from Ms. Beth Meza and other community members regarding the possible naming of field # 2 at the Elko Sports Complex after Mr. Hal Hibbert on May 25, 2021. Pursuant to the criteria for naming City of Elko Facilities and Parks, Staff requested additional public comment from organizations and citizens utilizing the facility. Subject to comments and information presented during this public hearing, the City Council may take action to name the facility as requested in the petition. JW

James Wiley, Parks and Recreation Director, explained this is the second step in the process before adoption. There are a lot of names on a petition (included in the packet) and a lot of comments. They are all favorable in naming the field after Hal Hibbert.

Mayor Keener called for public comments.

Danny Story, Elko Adult Softball, said they would be honored to have a field at the Sports Complex named after Hal Hibbert.

**\*\* A motion was made by Councilman Morris, seconded by Councilman Stone, to name field #2 of the Elko Sports Complex after Mr. Hal Hibbert.**

*The motion passed unanimously. (3-0)*

## **VIII. REPORTS**

### **A. Mayor and City Council**

*Mayor Keener said he had the opportunity to attend an open house/ribbon cutting for Elko Federal Credit Union. He spoke with a contractor when he was there and said there is a need to put together some sort of workshop regarding the City Development process. We are a customer service organization and if they want to develop in the City we need to give them good customer service or we can lose out on the development. Maybe even send out a survey. He thanked Curtis for his work with the League of Cities and the retreat, which is happening next week.*

*Councilman Stone said he was downtown and looked at the block ends project. There was a section that looked to have a V pattern that looked like water will pool in there.*

*Bob Thibault, Civil Engineer, answered that is a low impact development where the stormwater will actually flow through the landscaping. It might puddle slightly but it is intended to flow. We created that as a low spot at that corner in the curb so they decided to have it flow through the curb and the landscaping.*

*Councilman Stone said he went through the golf course the other day and the grass is looking really good.*

*Mayor Keener thanked staff for their help on a presentation he is putting together.*

- B. City Manager – Nevada League of Cities Retreat June 16 – 18, 2021  
*Curtis Calder explained the retreat and the planned events. The annual conference will be held in Sparks in the Fall. We will have open enrollment in the last 2 weeks of June. Everyone is required to go through the open enrollment this year. The invites will be coming out shortly.*
- C. Assistant City Manager
- D. Utilities Director  
*Mayor Keener asked how the new Vac Truck is working.  
Dale Johnson answered it is working really well and has been busy.  
Mayor Keener asked if there has been any resolution to the water issue that was reported by the Thorntons.  
Mr. Johnson answered not really. The Thorntons complained about it again but there hasn't been any issue since then.*
- E. Public Works  
*Dennis Strickland said the crews have been super busy patching the roads and getting them ready for the Micro Slurry Project.  
Mayor Keener said he spoke with Jared from Elko Sanitation and he said good things about the crew at the Landfill.  
Mr. Strickland said Elko Sanitation are great to work with and the Landfill's biggest customer. The Landfill staff went out of their way to make sure Elko Sanitation wasn't super impacted during the scale project. The new scales are in and working great.  
Mayor Keener said he spoke with Brad with Facilities and he was talking about how the City changed out all the lights up to 7<sup>th</sup> Street. Was there an update from NV Energy on the 400 and 500 blocks?  
Dennis Strickland said he got an email from Mr. Campbell last week saying they are working diligently at getting the damaged lights in the Coffee Mug section fixed. We are missing 2 luminaires there and one by Roys. We have upgraded the lights at 3<sup>rd</sup> and Silver by making them brighter. There will be a radar speed limit sign coming to slow people down in the downtown area. We will light up the block ends too with Bob's project.  
Mayor Keener thought it would be helpful to get Dave Zornes involved. He is who brought the lighting issue to his attention as being a safety concern.*
- F. Airport Manager
- G. City Attorney
- H. Fire Chief  
*Chief Griego said his crews have been able to get back into the schools for their events before the school year ended. They look forward to doing it again next year. The numbers have been modest but they are getting calls while on another call. It used to be rare that we saw two calls at the same time.*
- I. Police Chief
- J. City Clerk – Legislative update  
*Kelly Wooldridge said she is working on the final spreadsheet on the legislative bills that impact the City. She will get it out to everyone as soon as she gets it done.*
- K. City Planner
- L. Development Manager
- M. Financial Services Director – ARPA update

N. Parks and Recreation Director

*Mayor Keener said he noticed a lot of charges in the payables for temps. He asked if the temps have worked out.*

*James Wiley answered there has been some good luck with some and not so good luck with a couple. He didn't think they had any temps right now.*

O. Civil Engineer

*Bob Thibault reported they are laying sod at the Corridor Block Ends Project. The 5<sup>th</sup> Street Park Parking Lot is almost 90% done. It looks great and recommended everyone go and take a look at it.*

P. Building Official

Councilman Stone commented about Elko High School's graduation and the fireworks display. People loved it and he has heard nothing but good things.

Before going into the closed session, Mayor Keener asked if there were any public comments without a response.

## II. PERSONNEL (Cont.)

- B. Update regarding Labor Negotiations between the City of Elko and the Elko Fire Fighters Association, IAFF Local 2423, and matters related thereto.  
**INFORMATION ONLY – NON ACTION ITEM**

**Note: This portion of the meeting may be closed pursuant to NRS 288; therefore, the Council may move to adjourn the meeting prior to consideration of this item.**

Mayor Keener adjourned the meeting and moved to a closed session. At 6:53 pm, he adjourned the closed session and re-opened the regular meeting.

## COMMENTS BY THE GENERAL PUBLIC

Pursuant to N.R.S. 241, this time is devoted to comments by the public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item on the agenda until the matter itself has been specifically included on a successive agenda and identified as an item for possible action. **ACTION WILL NOT BE TAKEN**

*There were no public comments.*

There being no further business, Mayor Reece Keener adjourned the meeting.

---

Mayor Reece Keener

---

Kelly Wooldridge, City Clerk

**Elko City Council  
Agenda Action Sheet**

1. Title: **Presentation of an appreciation plaque by Mayor Keener in recognition of Urijah Lortie, for his generous donation to the City of Elko Animal Shelter, and matters related thereto. INFORMATION ONLY – NON ACTION ITEM**
2. Meeting Date: **June 22, 2021**
3. Agenda Category: **PRESENTATION**
4. Time Required: **5 Minutes**
5. Background Information:
6. Budget Information:  
    Appropriation Required:   **N/A**  
    Budget amount available:   **N/A**  
    Fund name:   **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information:
9. Recommended Motion: **Information Only – Non Action Item**
10. Prepared by: **Curtis Calder, City Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: **Urijah Lortie  
    Billie Lortie (Mother of Urijah Lortie)**

**Elko City Council  
Agenda Action Sheet**

1. Title: **Presentation of a proclamation by the Mayor in recognition of August 3, 2021 as "National Night Out", and matters related thereto. INFORMATION ONLY – NON ACTION ITEM**
2. Meeting Date: **June 22, 2021**
3. Agenda Category: **PRESENTATION**
4. Time Required: **5 Minutes**
5. Background Information:
6. Budget Information:  

Appropriation Required:   N/A  
Budget amount available:   N/A  
Fund name:   N/A
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information:
9. Recommended Motion: **INFORMATION ONLY – NON ACTION ITEM**
10. Prepared by: **Curtis Calder, City Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:



2020  
YEAR IN REVIEW

**CITY OF ELKO  
PUBLIC WORKS**



# STREET DEPARTMENT



Doug Standley



James Pauley



Aaron Brensel



Josh Delmore



Paul Algerio



Nick Kyriss



Carlos Gonzalez



Gavin Demaline



Martin Salas



Pat Flowers



# PROJECTS

- Overlay 5<sup>th</sup> Street from Elm Street to Spruce Road
- Constructed 660 feet for Manzanita Lane in conjunction with Ruby Dome Construction
- Extensive patching on Indian View Heights Drive
- Removed 3400 Cubic Yards of material from the dog park parking lot
- Overlay West Idaho at exit 298
- Assisted with the Sports Complex by hauling and spreading millings around the fields
- Overlay Ruby Vista Drive from Paradise Road to Kittridge Canyon Road
- Extensive patching on Bullion Road from approximately 701 Bullion Road to the City limits (Hot Hole Hill)
- Cedar Street Project Phase 3



# MISCELLANEOUS PROJECTS

- Leaf collection program = 7,960 bags
- Christmas tree recycling program - 5 days
- Striping and Traffic markings - 26 days (stop bars, crosswalks, turn arrows, etc.)
- Swept entire City 6 times – Weather permitting, City sweepers run 8 to 10 months a year.
- Extensive patching for 63 days plus 18 days of miscellaneous patching
- Alley Maintenance – 4 days
- Crack sealed 19 days
- Sign Maintenance – 22 days
- Drainage maintenance – 19 days, which includes cleaning of drop inlets, culverts, open drainage, and retention dam maintenance
- Weed abatement (burning, cutting, spraying) – 52 days
- Special events – provided traffic control for 1 special event/parade



# MISCELLANEOUS PROJECTS

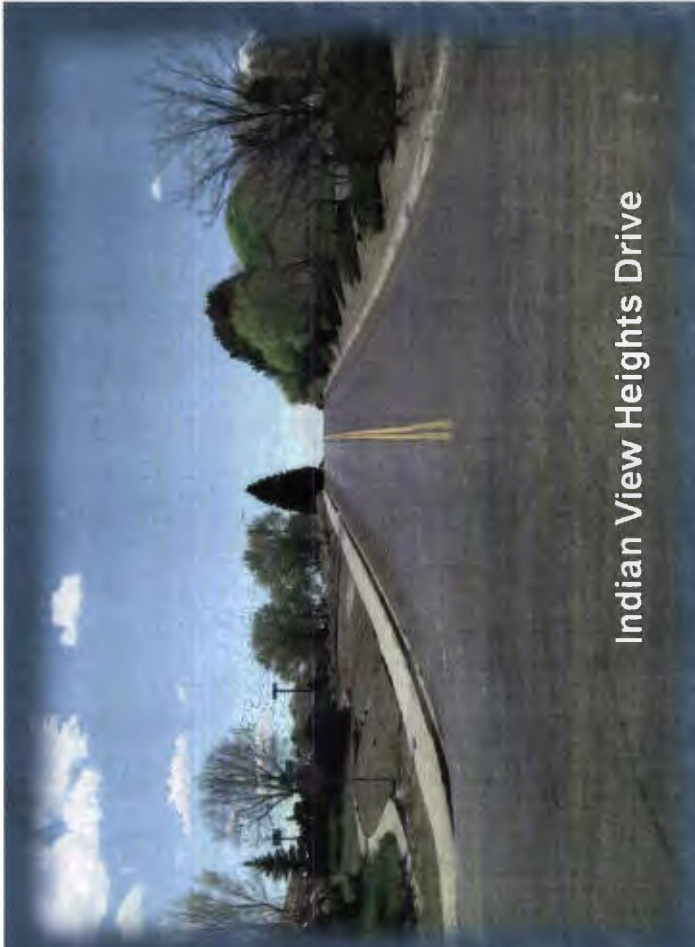
(continued)

- Maintained gravel roads – 19 days
- Applied Micro Slurry to approximately 10.63 miles of City streets
- Maintained the fire line around the city
- Maintained City fencing – 8 days
- Curb, gutter and sidewalk maintenance (cleaning ADA ramps, painting red curb, construction of new, etc.) – 40 days
- Trimmed and removed trees – 24 days





5<sup>th</sup> Street Overlay



Indian View Heights Drive



Bullion Road Overlay



Dog Park Parking Lot





Sweeping



Crack Sealing



Patching



# SOLID WASTE



Suzanne Ray



Payden Shafer



Frank Zaga



Danny Williams



Shane Fertig, Landfill Superintendent



Trash



Derek Glennon



Rebecca Hansen



Spencer Sutherland

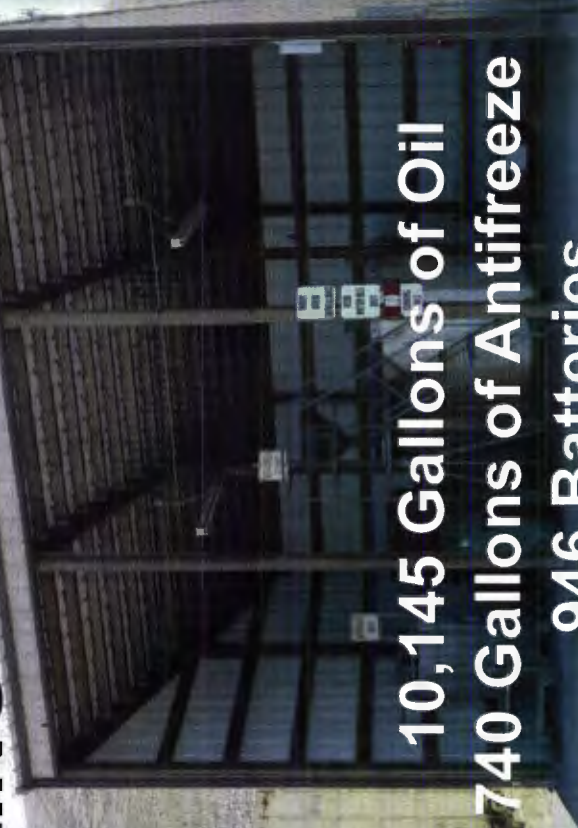
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# RECYCLING



**229.45 Tons Metals**



**10,145 Gallons of Oil  
740 Gallons of Antifreeze  
946 Batteries**



**129.22 Tons of Tires**



# MISCELLANEOUS

- Hired two new full-time employees.
- Purchased a new Caterpillar D6 Dozer in November. The new dozer is equipped with a GPS system that provides instant feedback on elevations on any slope or surface at the landfill, thereby eliminating the need for extensive staking by a surveying
- Due to theft problems, installed additional alarm systems in both of the shops and switched the scale house alarm system to the same company.
- Had a new engine installed in the 826 Caterpillar Compactor.
- The 623 Scraper incurred extensive damage in an incident last year. Repairs were made by Cashman Equipment Company and the machine is back in full service.
- The older scale sections, that were not replaced with the last scale upgrade, were found to be worn out and in need of replacement during the last scale certification; therefore, the scales were replaced this year.



# MISCELLANEOUS PROJECTS

## (continued)

- Spring Take Pride Day was cancelled due to Covid, but during the November Free Landfill day, there was two hundred twenty-eight loads containing 53.29 tones of trash and 109 tires. There were 228 vehicles in/out of the Landfill.
- Continued the Downtown Corridor and Park system trash collection program.
- Continue to upgrade signage at the Landfill.
- There is a continuing problem with people cutting the perimeter fence at the Landfill in order to either cut through Landfill property or to commit theft or vandalism.
- In a continuing effort to comply with the beautification requirement of the Landfill permit, the Landfill planted 15 Autumn Purple Ash and 11 Austrian Pines.



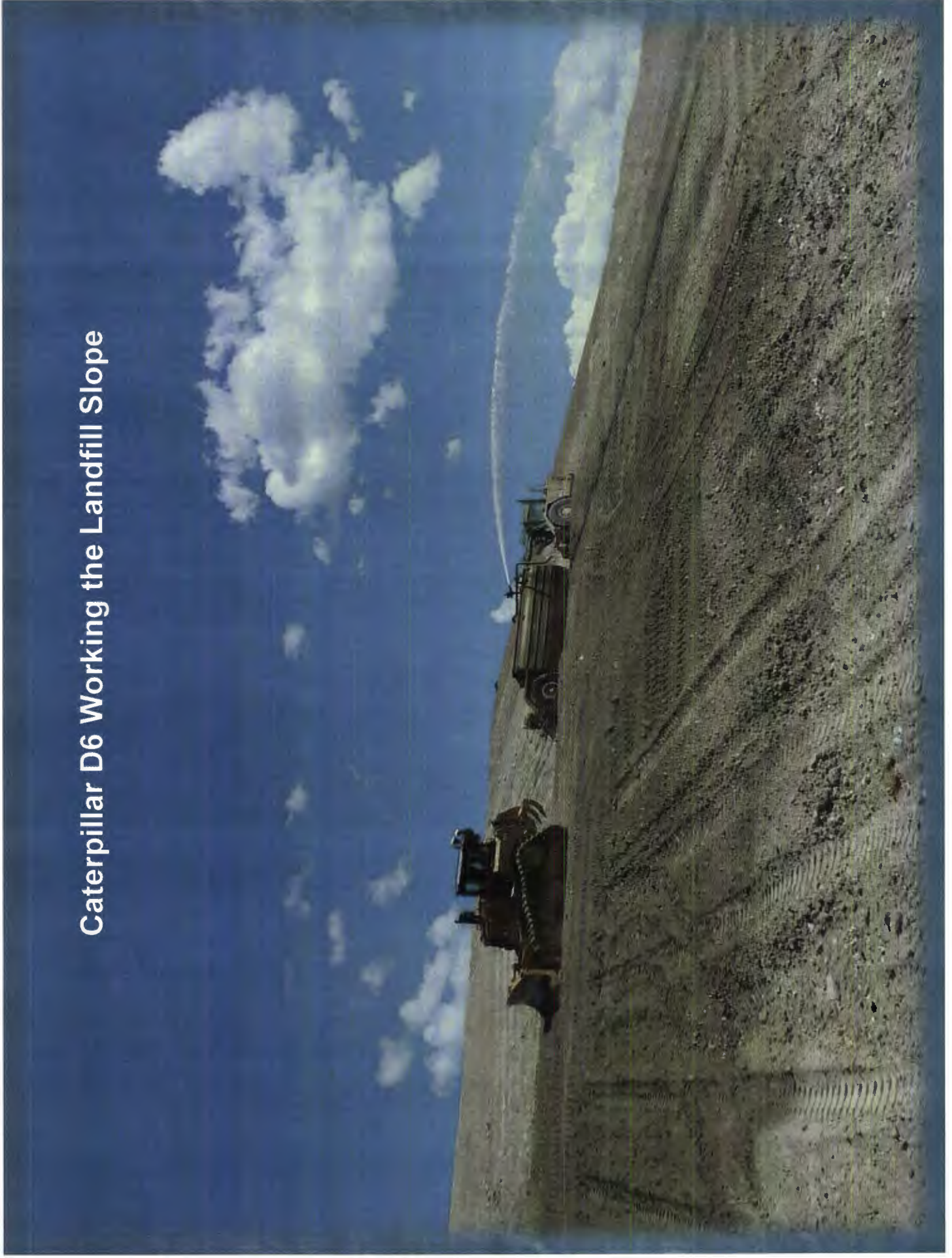
Took in 69,051 tons of waste



Compactor working the Landfill face



Caterpillar D6 Working the Landfill Slope



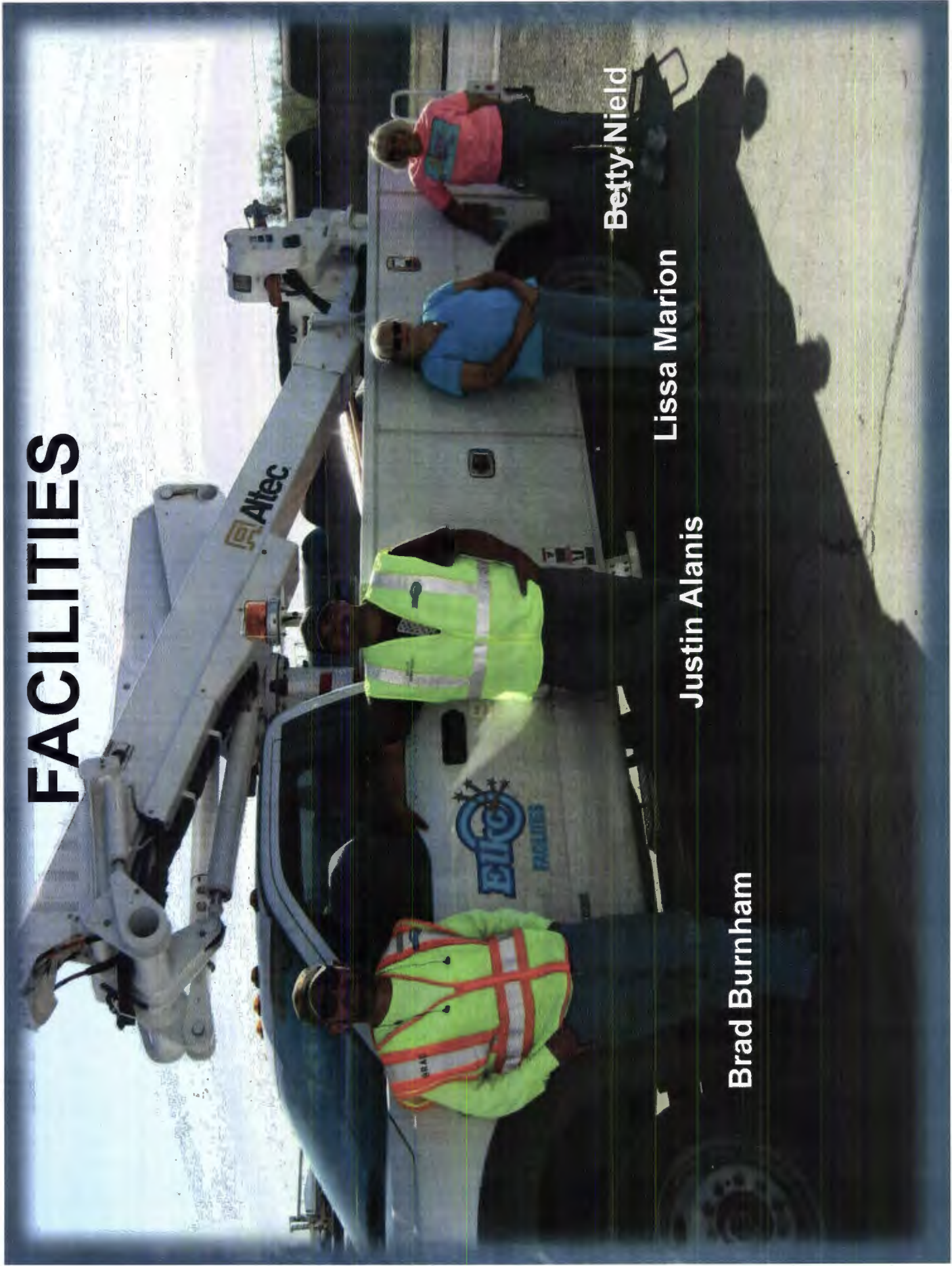


## New Outbound Landfill Scales





# FACILITIES



Betty Nield

Lissa Marion

Justin Alanis

Brad Burnham



# PROJECTS

- Installed two rooftop HVAC units on the Golf Course Clubhouse
- Installed a new roof on the Kump Field Announcer's Booth
- Installed Gridsmart Detection to the traffic signals at SR225 and Spruce Road, SR225 and Walmart, and SR227 and Errecart Boulevard
- Installed two LED lighted street signs at 5<sup>th</sup> Street and Silver Street.
- Installed Plexiglas barriers (Covid related) at the Engineering Department, Building Department, City Hall, Swimming Pool, and the Animal Shelter.



# MISCELLANEOUS

- Responded to 5 Battery Backup System outages on traffic signals.
- Responded to 10 traffic signals in flash.
- Responded to 10 accidents that affected City facilities
- Assist the Elko County Road Department with their signalized traffic intersection in Spring Creek.
- Perform janitorial at City Hall, the Police Station, Parks & Recreation (Fire Station #2), Landfill, Swimming Pool, Street Department, Fleet Department, Water Department, and the Golf Maintenance Department.
- Perform installation, repair, replacement, troubleshooting, and maintenance of electrical, HVAC, plumbing, carpentry, and concrete work.



# Traffic Signal Maintenance





Golf Course Club House HVAC Units



Concrete





**Covid Related  
Disinfecting**



**Kump Ball Field Roof**



**Janitorial**



**HVAC Unit  
Work**



**Solar Panels**



**Special Projects**





# FLEET MAINTENANCE DEPARTMENT



Darin Windous



Ben Ritz



Fernando Mendive



# City Units

With 1 supervisor, 1 mechanic, and 1 welder/fabrication/mechanic the fleet department services, maintains & repairs:

- 121 cars and pickups
- 35 pieces of heavy equipment
- 14 Fire Trucks
- 20 dump trucks
- 40 pieces of specialty equipment, and
- 194 pieces of misc. small support equipment.



# Newly Purchased Equipment

- 2 new fire trucks
- 4 new police department units
- 2 New Mowers – Cemetery and Parks
- 1 New Ambulance
- 2 New Trucks – Airport and Building Department
- 1 New Hook Lift Truck – Sewer Department
- All of which needed radios, decals, and equipment installed.

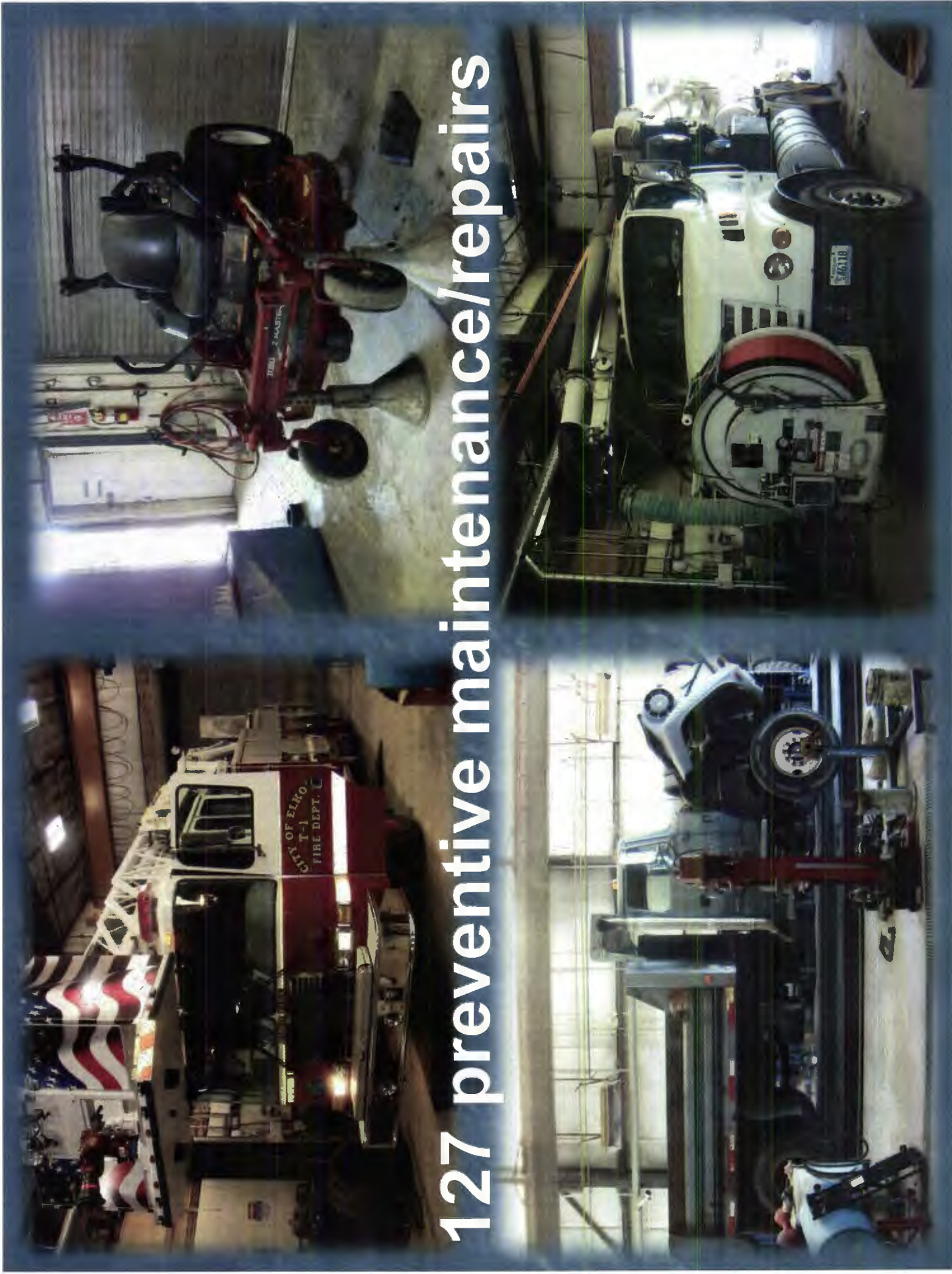


# Preventive Maintenance 2020



114 preventive maintenance/  
repairs on police units





127 preventive maintenance/repairs



THE END

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of revisions to the position description for Animal Control Officer, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 22, 2021**
3. Agenda Category: **PERSONNEL**
4. Time Required: **5 Minutes**
5. Background Information: **The Animal Control Officer position description has been revised and updated to accurately reflect the duties and requirements of the position. SS**
6. Budget Information:  
    Appropriation Required: **NA**  
    Budget amount available: **NA**  
    Fund name: **NA**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Copy of proposed position description**
9. Recommended Motion: **Approve the revised Animal Control Officer position description as presented.**
10. Prepared By: **Susie Shurtz, Human Resources Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible issuance of final acceptance for the Alley Water Line Replacement between 4<sup>th</sup>, 5th, Commercial & Silver Streets, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 22, 2021**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **5 Minutes**
5. Background Information: **Great Basin Engineering has completed the work for the alley project. Staff recommends the issuance of final acceptance. There was one change order for \$9,532.70 for standby time and additional quantity adjustments for \$4,810.35 for materials. The original contract amount was \$159,220.91 plus the addition of Change Order # 1 and the quantity adjustments for a combined amount of \$14,343.05, bringing the total project cost to \$173,563.96. DJ**
6. Budget Information:  

**Appropriation Required: \$173,563.96**  
**Budget amount available: \$200,000.00**  
**Fund name: Water**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Quantity Adjustments-Provided by Great Basin Engineering and Chang order #1 for time and material standby.**
9. Recommended Motion: **Move to issue final acceptance**
10. Prepared by: **Dale Johnson, Utilities Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:





# GREAT BASIN

engineering contractors

Job No. 21-027  
City of Elko  
Downtown Alley Waterline

Item No	Description	Bid Qty.	Unit	Rate	Total	Change Qty	Change Total	Project Total
1	Mob & Demob	1	LS	\$4,486.90	\$4,486.90		\$0.00	\$4,486.90
2	Traffic Control	1	LS	\$2,574.82	\$2,574.82		\$0.00	\$2,574.82
3	Saw Cut Ex. Pavement	630	LF	\$4.04	\$2,545.20	126	\$509.04	\$3,054.24
4	Saw Cut Ex. Concrete	33	LF	\$5.99	\$197.67		\$0.00	\$197.67
5	Remove Ex. Pavement	2,988	SF	\$0.81	\$2,420.28	-1187	-\$961.47	\$1,458.81
6	Remove Ex. Curb & Gutter	16	LF	\$30.95	\$495.20		\$0.00	\$495.20
7	Remove Ex. Concrete	100	SF	\$12.44	\$1,244.00	54	\$671.76	\$1,915.76
8	4" Hot Tap, Materials, Ex & Backfill	2	EA	\$5,649.47	\$11,298.94		\$0.00	\$11,298.94
9	4" Gate Valve (FLGxMJ)	2	EA	\$1,744.33	\$3,488.66		\$0.00	\$3,488.66
10	6"x4" Reducer (FLG)	2	EA	\$637.23	\$1,274.46		\$0.00	\$1,274.46
11	4" Adaptor (FLGxMJ)	2	EA	\$500.38	\$1,000.76		\$0.00	\$1,000.76
12	6" Adaptor (FLGxMJ)	2	EA	\$620.07	\$1,240.14		\$0.00	\$1,240.14
13	6" C900 Waterline	364	LF	\$78.30	\$28,501.20	17	\$1,331.10	\$29,832.30
14	Install 1" Water Services	8	EA	\$2,600.50	\$20,804.00	2	\$5,201.00	\$26,005.00
15	Install 1" Meter Box	8	EA	\$2,418.68	\$19,349.44	2	\$4,837.36	\$24,186.80
16	Install Traffic Rated Box	8	EA	\$1,714.35	\$13,714.80	2	\$3,428.70	\$17,143.50
17	Remove Ex. Water Serv. & Curb Box	4	EA	\$599.23	\$2,396.92	2	\$1,198.46	\$3,595.38
18	Install Valve Boxes, Adj to Grade, Collars	2	EA	\$1,124.71	\$2,249.42		\$0.00	\$2,249.42
19	3" AC Pavement	2,851	SF	\$5.05	\$14,397.55	-1187	-\$5,994.35	\$8,403.20
20	9" Type 2 Base	2,851	SF	\$6.57	\$18,731.07	-1187	-\$7,798.59	\$10,932.48
21	Type 1 Curb & Gutter	16	LF	\$149.28	\$2,388.48		\$0.00	\$2,388.48
22	4" Thick Concrete Sidewalk	100	SF	\$44.21	\$4,421.00	54	\$2,387.34	\$6,808.34
				<b>Total:</b>	<b>\$159,220.91</b>		<b>\$4,810.35</b>	<b>\$164,031.26</b>

Original Contract Amount	\$159,220.91
Change Order 1 - Standby	\$ 9,532.70
Final Quantity Adjustments	\$ 4,810.35
Final Contract Amount	<u>\$173,563.96</u>

CITY OF ELKO, NEVADA  
CONTRACT CHANGE ORDER FORM-CHANGE ORDER NO. 1

Project: Water Line Replacement  
Alley between 4th, 5th, Commercial & Silver Steets

Date of Issuance: June 15, 2021  
Owners Project #: PWP EL-2021-138

Contractor: Great Basin Engineering Contractors  
Address: 3250 West Idaho Street  
Elko, Nevada 89801

Engineer: Carter Engineering, LLC

CONTRACT WORK CHANGE ITEMS:

BID ITEM NO.	WORK DESCRIPTION	Qty	Unit	Unit Rate	AMOUNT
GB21-027	Standby and T & M Billing	1	LS	\$9,532.70	\$9,532.70
Total Change Order Amount:					\$9,532.70

Change In Contract Price

Original Bid Contract Price

\$159,220.91

Contract Price Prior to this Change Order

\$159,220.91

Net Increase or Decrease in Contract Price

\$9,532.70

New Contract Price with all Change Orders

\$168,753.61

Change In Contract Time

Original Contract Time

30 Calendar Days

Contract Time Prior to this Change Order

30 Calendar Days

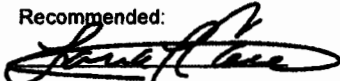
Net Increase or Decrease in Days

0 Calendar Days

New Contract Time with all Change Orders

30 Calendar Days

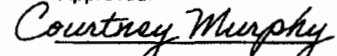
Recommended:

  
Engineer

Approved:

  
Owner-City of Elko

Approved:

  
Contractor





# Great Basin Engineering Contractors Daily

Superintendent: Scott Lattin

Date: May 11, 2021

## PROJECT LOCATION AND JOB #

Downtown Alley 21-027

## Site Safety Inspection Performed

Initial

Yes

No

Estimated  
Completion  
Date

Person Res

## Hazards / Items / Topics

Corrective Action

## Job Phase

Employee	Class	Van	01-01	02-01	03-01	04-01	05-01	06-01	07-01	08-01
			Mob	Demo	ConCrete	Main	Services	Paving	Management	Standby
Scott Lattin	O					7				3
Abel Salazar	L									
Aberham Gonzalez	C									
Enrique Cruz	C									
Ernesto Ochoa	L					6				3
Humberto Gonzalez	L					6				3
Kaelen Sherbrooke	O									
Jim Ghal	O					6				3
Jose Romero	C									
Luis Leyva	C									
Manuel Salazar	L					6				3
Pickups	Units									
E350	LV07									
F250	LV39									
F350	LV45					5				3
F350	LV48									
Transit	LV27									
Tacoma	LV35									
Equipment Used	EQ #									
Cat 257D	SS01									
Cat 259B	SS03									
Cat 259D	SS05									
Cat 259D	SS06					2				3
Cat 308E	EX11					4				3
Kenworth	ST106									
Ford Water Truck	ST107					2				3
Sterling 5YD	ST108					2				3
Cat 14-15	MG07									
Cat 938K	LD02					2				3

## Progress

pot holed for main marked in wrong location went the other way

Personnel Injury: NO

Property Damage: NO

Approved By:

# Great Basin Engineering Contractors Daily

Superintendent: Scott Lattin

Date: May 12, 2021

## PROJECT LOCATION AND JOB #

Downtown Alley 21-027

## Site Safety Inspection Performed

Initial

Yes

No

Estimated  
Completion  
Date

Person Res

## Hazards / Items / Topics

Corrective Action

## Job Phase

Employee	Class	Van	01-01 Mob	02-01 Demo	03-01 ConCrete	04-01 Main	05-01 Services	06-01 Paving	07-01 Management	08-01 Standby
Scott Lattin	O									10 ✓
Abel Salazar										
Humberto Gonzalez										
Kaelen Sherbrooke										
Jim Ghal	D									
Jose Romero										
Luis Layva	C									
Manuel Salazar										
Pickups	Unit #									
E35	LV									
F250	LV39									
F350	LV45									
F350	LV48									
Transit	LV27									
Tacoma	LV35									
Equipment Used	EQ #									
Cat 257D	SS01									
Cat 259B	SS03									
Cat 259D	SS05									
Cat 259D	SS06									
Cat 308E	EX11									
Cat 303 5	EX07									
Kenworth	ST106									
Ford Water Truck	ST107									
Stemmy 5Y	ST108									
Cat 14-15	MG07									
Cat 938K	LD02									

## Progress

city hot tapped wrong pie had to demo more road and find new pipe

Personnel Injury: NO  
Property Damage: NO

Approved By:





**Elko City Council**

**Agenda Action Sheet**

1. Title: **Review and possible approval of the Elko Regional Airport Liability Insurance Policy for FY 2021/2022, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 22, 2021**
3. Agenda Category: **APPROPRIATION**
4. Time Required: **5 minutes**
5. Background Information: **LP Insurance Services, Inc. has competitively sought airport liability insurance proposals for this coming fiscal year. Two (2) quotes were received. Last year AIG Aerospace was our provider for the same coverage amount at \$10,834.00 / year.**
6. Budget Information:  
    Appropriation Required:  
    Budget amount available: **\$12,188.00**  
    Fund name: **Airport Enterprise Fund**
7. Business Impact Statement: **N/A**
8. Supplemental Agenda Information: **Quotes from LP Insurance Services**
9. Recommended Motion: **Move to approve the recommended airport Liability insurance quote from Staff.**
10. Prepared by: **Jim Foster, Airport Manager**
11. Committee/Other Agency Review: **N/A**
12. Council Action:
13. Agenda Distribution: **Dain A. Uriarte  
LP Insurance Services  
429 Court Street Suite #1  
Elko, NV 89801  
Direct: 775-299-5097  
Office: 775-738-7278**



**City of Elko**  
**Airport Liability Insurance**  
**Renewal Quotations**  
**July 1, 2021 to July 1, 2022**

---

<b>AIG 2020-2021: \$10,834</b>	<b>AIG</b>
<b>Best Rating</b>	<b>A</b>
<b>Financial Size</b>	<b>XV</b>
<b>Annual Premium</b>	<b>\$10,844</b>
<b>Limits of Liability</b>	<b>\$20,000,000</b>

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<b>Premises &amp; Operations</b>	<b>Included</b> <b>\$1,000 Deductible</b>
<b>Products/Completed Operations</b>	<b>Included*</b>
<b>Hangarkeeper's Liability</b>	<b>Included</b> <b>\$5,000 Deductible</b>
<b>Personal &amp; Advertising Injury Liability</b>	<b>Included*</b>
<b>Contractual Liability</b>	<b>Included</b>
<b>Independent Contractors</b>	<b>Included*</b>
<b>Premises Medical</b>	<b>\$25,000 Ea. Per.</b>
<b>Medical Malpractice</b>	<b>Included*</b>
<b>Fire Damage Legal Liability</b>	<b>\$1,000,000</b>
<b>Non-Owned A/C Liability</b>	<b>Not Covered</b>
<b>*Annual Aggregate</b>	
<b>Optional: TRIA</b>	<b>Add: \$3,253</b>

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of a Deed of Dedication for Right-of-Way, Public Utilities, and Slope Easement on APN 001-770-005, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 22, 2021**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **10 Minutes**
5. Background Information: **The City of Elko has been engaging the property owners of the referenced APN to acquire the necessary dedications for utility infrastructure which will be utilized as a second water source for the regional hospital. The proposed dedications will also facilitate proper roadway development and utility infrastructure for the Elko Mountain area east of State Route 227 and the area adjacent to the regional hospital on the west side of State Route 227. MR**
6. Budget Information:  

Appropriation Required: **N/A**  
Budget amount available: **N/A**  
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Proposed Deed of Dedication with Exhibits**
9. Recommended Motion: **Approve the Deed of Dedication for Right-of-Way, Public Utilities, and Slope Easement as presented.**
10. Prepared by: **Michele Rambo, AICP, Development Manager**
11. Committee/Other Agency Review: **David Stanton, City Attorney**
12. Council Action:
13. Council Agenda Distribution: **Elko Holding Group, LLC  
Attn: Mark Gaughan  
[mark@aloharealty.com](mailto:mark@aloharealty.com)**



APN 001-770-005

**When Recorded, Mail To:**

City of Elko  
1751 College Avenue  
Elko, Nevada 89801

**DEED OF DEDICATION**  
**(RIGHT-OF-WAY, PUBLIC UTILITIES AND SLOPE EASEMENT)**

**THIS INDENTURE**, made and entered into between **ELKO HOLDING GROUP, LLC**, a Nevada limited-liability company, Grantor, and the **CITY OF ELKO**, a municipal corporation and political subdivision of the State of Nevada, Grantee.

**W I T N E S S E T H:**

That the Grantor, for valuable consideration, the receipt of which is hereby acknowledged, does hereby dedicate to the Grantee a permanent non-exclusive right-of-way (to include, without limitation, streets and roadways), public utilities easement and slope easement, over, across, upon, under and through that portion of the Grantor's property situate within the City of Elko, County of Elko, State of Nevada, set forth in the descriptions attached hereto at **Exhibit A (roadway right-of-way)**, **Exhibit C (slope easements)** and **Exhibit E (utility easement)** and depicted on the maps attached hereto at **Exhibit B (roadway right-of-way)**, **Exhibit D (slope easements)** and **Exhibit F (utility easement)**, the right-of-way hereby being dedicated for a public street and right-of-way, the slope easement hereby being dedicated for the purpose of adjusting and stabilizing the elevation difference between the right-of-way and adjoining property, and the utility easement being for the purpose of installing and utilizing all public utilities, to include water and sewer lines, such dedications to include, without limitation, the right of the Grantee to perform all associated maintenance thereon.

**IN WITNESS WHEREOF**, the Grantor has caused this indenture to be executed

///  
///  
///  
///  
///  
///  
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this 5 day of June, 2021.

**GRANTOR:**

**ELKO HOLDING GROUP, LLC**

By: *Shy Pan*

Its: MANAGING MEMBER  
ELKO HOLDING GROUP, LLC

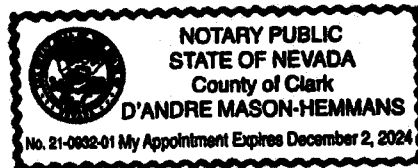
STATE OF NEVADA     )  
                    Clark     ) ss.  
COUNTY OF ~~ELKO~~     )

On this 5<sup>th</sup> day of June, 2021, personally appeared before me,  
a Notary Public, Shy Pan Gaughan, who acknowledged  
that he/she executed the above instrument.

*D'Andre Mason-Hemmans*  
**NOTARY PUBLIC**

**Mail tax statement (if applicable) to:**

City of Elko  
1751 College Avenue  
Elko, Nevada 89801



**Exhibit A**  
**LEGAL DESCRIPTION FOR TWO**  
**ROADWAY RIGHT-OF-WAY DEDICATIONS**

Portions of APN: 001-770-005 described as follows:

**AREA 1, ELKO MOUNTAIN WAY**

An area of land within the northwest quarter of the northeast quarter of Section 24, Township 34 North, Range 55 East, M.D.B. & M. which roughly follows the existing dirt road, formerly known as Powder House Road, and is further described as follows;

Beginning at a point along the northeasterly right-of-way of Lamoille Highway, State Route 227, that bears South 54°19'43" East, a distance of 583.88 feet, from the north quarter corner of said Section 24, Township 34 North, Range 55 East;

Thence, from a tangent bearing North 61°17'27" East, along a circular curve to the right, with a radius of 390.00 feet, an arc length of 288.97 feet, and a central angle of 42°27'13";

Thence, on a tangent bearing, South 76°15'20" East, a distance of 145.59 feet;

Thence, along a tangent circular curve to the left, with a radius of 310.00 feet, an arc length of 119.19 feet, and a central angle of 22°01'46";

Thence, on a tangent bearing, North 81°42'55" East, a distance of 269.62 feet;

Thence, along a tangent circular curve to the left, with a radius of 25.00 feet, an arc length of 35.61 feet, and a central angle of 81°37'09", more or less, to the east line of said northwest quarter of the northeast quarter of Section 24, Township 34 North, Range 55 East;

Thence, along said east line of the northwest quarter of the northeast quarter of Section 24, South 0°05'46" West, a distance of 115.65 feet;

Thence, from a tangent bearing North 36°49'00" West, along a circular curve to the left, with a radius of 25.00 feet, an arc length of 26.82 feet, and a central angle of 61°28'05";

Thence, on a tangent bearing, South 81°42'55" West, a distance of 255.53 feet;

Thence, along a tangent circular curve to the right, with a radius of 390.00 feet, an arc length of 149.95 feet, and a central angle of 22°01'46";

Thence, on a tangent bearing, North 76°15'20" West, a distance of 145.59 feet;

Thence, along a tangent circular curve to the left, with a radius of 310.00 feet, an arc length of 223.09 feet, and a central angle of 41°13'59", more or less, to the northeasterly right-of-way of Lamoille Highway, State Route 227;

Thence, along said northeasterly right-of-way of Lamoille Highway, State Route 227, from a tangent bearing North 33°03'10" West, along a circular curve to the left, with a radius of 6177.58 feet, an arc length of 74.63 feet, and a central angle of 0°41'32";



Thence, on a tangent bearing, North 33°44'42" West, a distance of 5.71 feet, more or less, to the point of beginning.

This right-of-way is generally 80' wide, and contains a total of ±65,903 square feet.

## **AREA 2, ERRECART BOULEVARD**

An area of land within the northwest quarter of the northeast quarter of Section 24, Township 34 North, Range 55 East, M.D.B. & M. which follows the existing road known as Errecart Boulevard, and is further described as follows;

Beginning at a point along the westerly boundary of said northwest quarter of the northeast quarter of Section 24, Township 34 North, Range 55 East, which bears South 0°15'47" West, a distance of 635.51 feet from the north quarter corner of said Section 24;

Thence, along a non-tangent circular curve to the right, from a tangent bearing of North 47°59'33" East, with a radius of 1075.00 feet, an arc length of 161.26 feet, and a central angle of 8°35'42", more or less, to the southwesterly right-of-way line of Lamoille Highway, State Route 227;

Thence, along said southwesterly right-of-way line of Lamoille Highway, State Route 227, South 33°44'42" East, a distance of 36.65 feet;

Thence, continuing along said southwesterly right-of-way line of Lamoille Highway, State Route 227, on a tangent circular curve to the right, with a radius of 5,777.58 feet, an arc length of 113.35 feet, and a central angle of 1°07'27";

Thence, from a tangent bearing South 56°34'21" West, along a circular curve to the left with a radius of 925.00 feet, an arc length of 286.18 feet, and a central angle of 17°43'35", more or less, to the westerly boundary of said northwest quarter of the northeast quarter of Section 24, Township 34 North, Range 55 East;

Thence, along said westerly boundary of said northwest quarter of the northeast quarter of Section 24, Township 34 North, Range 55 East, North 0°15'47" East, a distance of 218.60 feet, more or less, to the point of beginning.

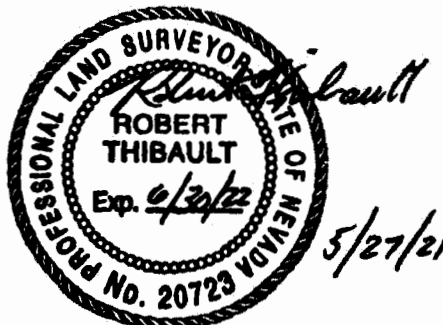
This right-of-way contains a total of ±33,263 square feet.

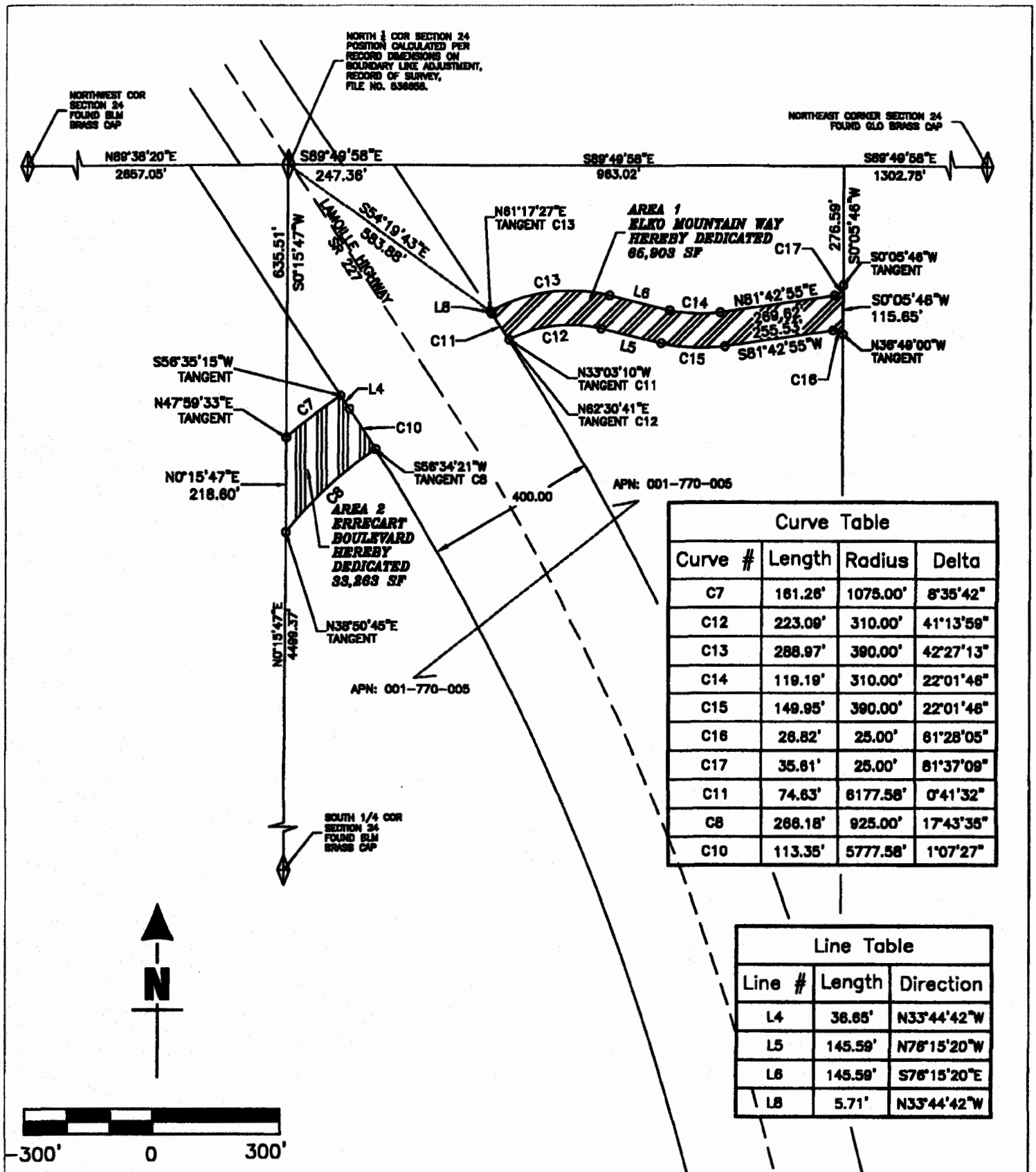
The Basis of Bearings for this description is the Boundary Line Adjustment Record of Survey for K.R.L. Partnership & Cotoko, recorded in the office of the Elko County Recorder as file no. 536658, on June 29, 2005. The right-of-way for Lamoille Highway, State Route 227 was drawn from the record Information on the Parcel Map for the City of Elko, Nevada, recorded in the office of the Elko County Recorder as file no. 443291, on April 7, 1999, and was rotated to match file no. 536658.

Description prepared by:

Robert Thibault, PE, PLS

Civil Engineer for the City of Elko





## EXHIBIT B

### ROADWAY RIGHT-OF-WAY DEDICATIONS



CITY OF ELKO  
1761 COLLEGE AVE  
ELKO, NEVADA 89601  
775-777-7210

#### SCALE

HORIZ 1"=300'

VERT NONE

DATE 5/27/21

12/16/20/21/22/23/24/25/26/27/28/29/30/31/32/33/34/35/36/37/38/39/40/41/42/43/44/45/46/47/48/49/50/51/52/53/54/55/56/57/58/59/60/61/62/63/64/65/66/67/68/69/70/71/72/73/74/75/76/77/78/79/80/81/82/83/84/85/86/87/88/89/90/91/92/93/94/95/96/97/98/99/100/101/102/103/104/105/106/107/108/109/110/111/112/113/114/115/116/117/118/119/120/121/122/123/124/125/126/127/128/129/130/131/132/133/134/135/136/137/138/139/140/141/142/143/144/145/146/147/148/149/150/151/152/153/154/155/156/157/158/159/160/161/162/163/164/165/166/167/168/169/170/171/172/173/174/175/176/177/178/179/180/181/182/183/184/185/186/187/188/189/190/191/192/193/194/195/196/197/198/199/200/201/202/203/204/205/206/207/208/209/210/211/212/213/214/215/216/217/218/219/220/221/222/223/224/225/226/227/228/229/230/231/232/233/234/235/236/237/238/239/240/241/242/243/244/245/246/247/248/249/250/251/252/253/254/255/256/257/258/259/260/261/262/263/264/265/266/267/268/269/270/271/272/273/274/275/276/277/278/279/280/281/282/283/284/285/286/287/288/289/290/291/292/293/294/295/296/297/298/299/300/301/302/303/304/305/306/307/308/309/310/311/312/313/314/315/316/317/318/319/320/321/322/323/324/325/326/327/328/329/330/331/332/333/334/335/336/337/338/339/340/341/342/343/344/345/346/347/348/349/350/351/352/353/354/355/356/357/358/359/360/361/362/363/364/365/366/367/368/369/370/371/372/373/374/375/376/377/378/379/380/381/382/383/384/385/386/387/388/389/390/391/392/393/394/395/396/397/398/399/400/401/402/403/404/405/406/407/408/409/410/411/412/413/414/415/416/417/418/419/420/421/422/423/424/425/426/427/428/429/430/431/432/433/434/435/436/437/438/439/440/441/442/443/444/445/446/447/448/449/450/451/452/453/454/455/456/457/458/459/460/461/462/463/464/465/466/467/468/469/470/471/472/473/474/475/476/477/478/479/480/481/482/483/484/485/486/487/488/489/490/491/492/493/494/495/496/497/498/499/500/501/502/503/504/505/506/507/508/509/510/511/512/513/514/515/516/517/518/519/520/521/522/523/524/525/526/527/528/529/530/531/532/533/534/535/536/537/538/539/540/541/542/543/544/545/546/547/548/549/550/551/552/553/554/555/556/557/558/559/560/561/562/563/564/565/566/567/568/569/570/571/572/573/574/575/576/577/578/579/580/581/582/583/584/585/586/587/588/589/590/591/592/593/594/595/596/597/598/599/600/601/602/603/604/605/606/607/608/609/610/611/612/613/614/615/616/617/618/619/620/621/622/623/624/625/626/627/628/629/630/631/632/633/634/635/636/637/638/639/640/641/642/643/644/645/646/647/648/649/650/651/652/653/654/655/656/657/658/659/660/661/662/663/664/665/666/667/668/669/670/671/672/673/674/675/676/677/678/679/680/681/682/683/684/685/686/687/688/689/690/691/692/693/694/695/696/697/698/699/700/701/702/703/704/705/706/707/708/709/710/711/712/713/714/715/716/717/718/719/720/721/722/723/724/725/726/727/728/729/730/731/732/733/734/735/736/737/738/739/740/741/742/743/744/745/746/747/748/749/750/751/752/753/754/755/756/757/758/759/760/761/762/763/764/765/766/767/768/769/770/771/772/773/774/775/776/777/778/779/780/781/782/783/784/785/786/787/788/789/790/791/792/793/794/795/796/797/798/799/800/801/802/803/804/805/806/807/808/809/810/811/812/813/814/815/816/817/818/819/820/821/822/823/824/825/826/827/828/829/830/831/832/833/834/835/836/837/838/839/840/841/842/843/844/845/846/847/848/849/850/851/852/853/854/855/856/857/858/859/860/861/862/863/864/865/866/867/868/869/870/871/872/873/874/875/876/877/878/879/880/881/882/883/884/885/886/887/888/889/890/891/892/893/894/895/896/897/898/899/900/901/902/903/904/905/906/907/908/909/910/911/912/913/914/915/916/917/918/919/920/921/922/923/924/925/926/927/928/929/930/931/932/933/934/935/936/937/938/939/940/941/942/943/944/945/946/947/948/949/950/951/952/953/954/955/956/957/958/959/960/961/962/963/964/965/966/967/968/969/970/971/972/973/974/975/976/977/978/979/980/981/982/983/984/985/986/987/988/989/990/991/992/993/994/995/996/997/998/999/1000/1001/1002/1003/1004/1005/1006/1007/1008/1009/1010/1011/1012/1013/1014/1015/1016/1017/1018/1019/1020/1021/1022/1023/1024/1025/1026/1027/1028/1029/1030/1031/1032/1033/1034/1035/1036/1037/1038/1039/1040/1041/1042/1043/1044/1045/1046/1047/1048/1049/1050/1051/1052/1053/1054/1055/1056/1057/1058/1059/1060/1061/1062/1063/1064/1065/1066/1067/1068/1069/1070/1071/1072/1073/1074/1075/1076/1077/1078/1079/1080/1081/1082/1083/1084/1085/1086/1087/1088/1089/1090/1091/1092/1093/1094/1095/1096/1097/1098/1099/1100/1101/1102/1103/1104/1105/1106/1107/1108/1109/1110/1111/1112/1113/1114/1115/1116/1117/1118/1119/1120/1121/1122/1123/1124/1125/1126/1127/1128/1129/1130/1131/1132/1133/1134/1135/1136/1137/1138/1139/1140/1141/1142/1143/1144/1145/1146/1147/1148/1149/1150/1151/1152/1153/1154/1155/1156/1157/1158/1159/1160/1161/1162/1163/1164/1165/1166/1167/1168/1169/1170/1171/1172/1173/1174/1175/1176/1177/1178/1179/1180/1181/1182/1183/1184/1185/1186/1187/1188/1189/1190/1191/1192/1193/1194/1195/1196/1197/1198/1199/1200/1201/1202/1203/1204/1205/1206/1207/1208/1209/1210/1211/1212/1213/1214/1215/1216/1217/1218/1219/1220/1221/1222/1223/1224/1225/1226/1227/1228/1229/1230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**Exhibit C**  
**LEGAL DESCRIPTION FOR TWO**  
**SLOPE EASEMENTS**

**AREA 1**

An area of land within the northwest quarter of the northeast quarter of Section 24, Township 34 North, Range 55 East, M.D.B. & M. which lies north of the Elko Mountain Way right-of-way described as Area 1 of Exhibit A of this document, and lies south of the following described line;

Beginning at a point along the northeasterly right-of-way of Lamolille Highway, State Route 227, that bears South 54°19'43" East, a distance of 583.88 feet, from the north quarter corner of said Section 24, Township 34 North, Range 55 East;

Thence, along said northeasterly right-of-way of Lamolille Highway, State Route 227, North 33°44'42" West, a distance of 52.80 feet;

Thence, North 81°21'48" East, a distance of 77.36 feet;

Thence, North 51°14'57" East, a distance of 54.54 feet;

Thence, North 35°19'33" East, a distance of 133.16 feet;

Thence, North 53°27'06" East, a distance of 73.34 feet;

Thence, South 72°46'46" East, a distance of 36.28 feet;

Thence, South 21°33'35" East, a distance of 81.02 feet;

Thence, South 69°07'29" East, a distance of 180.80 feet;

Thence, South 79°46'36" East, a distance of 74.76 feet;

Thence, South 63°54'04" East, a distance of 46.40 feet;

Thence, North 86°50'48" East, a distance of 156.77 feet;

Thence, North 27°41'25" East, a distance of 113.50 feet;

Thence, North 53°14'40" West, a distance of 103.56 feet;

Thence, North 18°11'42" East, a distance of 113.78 feet, more or less, to the northerly line of said Section 24;

Thence, South 89°49'58" East, along said northerly line of said Section 24, a distance of 92.38 feet, more or less, to the East 1/16 corner of said Section 24;

Thence, South 0°05'46" West, along the East 1/16 line of said Section 24, a distance of 276.59 feet, more or less, to the northerly boundary of the Powder House Road right-of-way described as Area 1 of Exhibit A of this document.

This area of land contains 2.23 acres (97,211 square feet) more or less.



## AREA 2

An area of land within the northwest quarter of the northeast quarter of Section 24, Township 34 North, Range 55 East, M.D.B. & M. which lies south of the Elko Mountain Way right-of-way described as Area 1 of Exhibit A of this document, and lies north of the following described line;

Beginning at a point along the northeasterly right-of-way of Lamoille Highway, State Route 227, that bears South  $51^{\circ}50'15''$  East, a distance of 659.56 feet, from the north quarter corner of said Section 24, Township 34 North, Range 55 East;

Thence, along the right-of-way of Lamoille Highway, State Route 227, from a tangent that bears South  $33^{\circ}44'42''$  East, along a circular curve to the right, with a radius of 6177.58 feet, an arc length of 40.20 feet, and a central angle of  $0^{\circ}22'22''$ ;

Thence, along a non-tangent circular curve to the right, from a tangent bearing North  $63^{\circ}18'39''$  East, with a radius of 270.00 feet, an arc length of 190.54 feet, and a central angle of  $40^{\circ}26'01''$ ;

Thence, South  $76^{\circ}15'20''$  East, a distance of 145.59 feet;

Thence, along a tangent circular curve to the left, with a radius of 430.00 feet, an arc length of 165.33 feet, and a central angle of  $22^{\circ}01'46''$ ;

Thence, North  $81^{\circ}42'55''$  East, a distance of 273.53 feet, more or less, to the easterly boundary of said northwest quarter of the northeast quarter of Section 24;

Thence, along the East 1/16 line of said Section 24, North  $0^{\circ}05'46''$  East, a distance of 27.23 feet, more or less, to the Powder House Road right-of-way described as Area 1 of Exhibit A of this document.

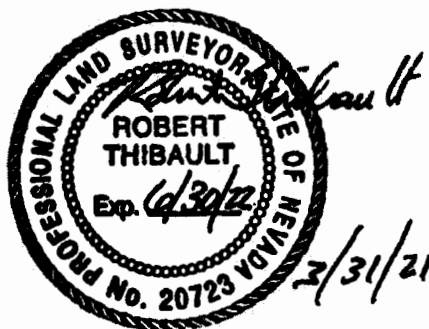
This area of land contains 0.72 acres (31,364 square feet) more or less.

The Basis of Bearings for this description is the Boundary Line Adjustment Record of Survey for K.R.L. Partnership & Cotoko, recorded in the office of the Elko County Recorder as file no. 536658, on June 29, 2005. The right-of-way for Lamoille Highway, State Route 227 was drawn from the record information on the Parcel Map for the City of Elko, Nevada, recorded in the office of the Elko County Recorder as file no. 443291, on April 7, 1999, and was rotated to match file no. 536658.

Description prepared by:

Robert Thibault, PE, PLS

Civil Engineer for the City of Elko





**Exhibit E**  
**LEGAL DESCRIPTION FOR A UTILITY EASEMENT**

An area of land within the northwest quarter of the northeast quarter of Section 24, Township 34 North, Range 55 East, M.D.B. & M. which lies north of the public access, utility, and drainage easement described as Area 2 of Exhibit A of this document, and is further described as follows;

Beginning at a point along the westerly boundary of said northwest quarter of the northeast quarter of Section 24, that bears South  $0^{\circ}15'47''$  West, a distance of 597.44 feet, from the north quarter corner of said Section 24, Township 34 North, Range 55 East;

Thence, North  $60^{\circ}01'16''$  East, a distance of 139.73 feet, more or less, to the southwesterly right-of-way of Lamoille Highway, State Route 227;

Thence, along said southwesterly right-of-way of Lamoille Highway, State Route 227, South  $33^{\circ}44'42''$  East, a distance of 11.24 feet, more or less, to the northerly boundary of the public access, utility, and drainage easement described as Area 2 of Exhibit A of this document;

Thence, along said northerly boundary of the public access, utility, and drainage easement described as Area 2 of Exhibit A of this document, from a tangent that bears South  $56^{\circ}35'15''$  West, on a circular curve to the left, with a radius of 1075.00 feet, an arc length of 161.26 feet, and a central angle of  $8^{\circ}35'42''$ , more or less, to the westerly boundary of said northwest quarter of the northeast quarter of Section 24;

Thence, along said westerly boundary of said northwest quarter of the northeast quarter of Section 24, North  $0^{\circ}15'47''$  East, a distance of 38.07 feet, more or less, to the point of beginning.

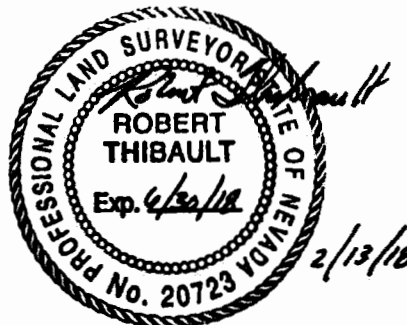
This area of land contains 2,876 square feet more or less.

The Basis of Bearings for this description is the Boundary Line Adjustment Record of Survey for K.R.L. Partnership & Cotoko, recorded in the office of the Elko County Recorder as file no. 536658, on June 29, 2005. The right-of-way for Lamoille Highway, State Route 227 was drawn from the record information on the Parcel Map for the City of Elko, Nevada, recorded in the office of the Elko County Recorder as file no. 443291, on April 7, 1999, and was rotated to match file no. 536658.

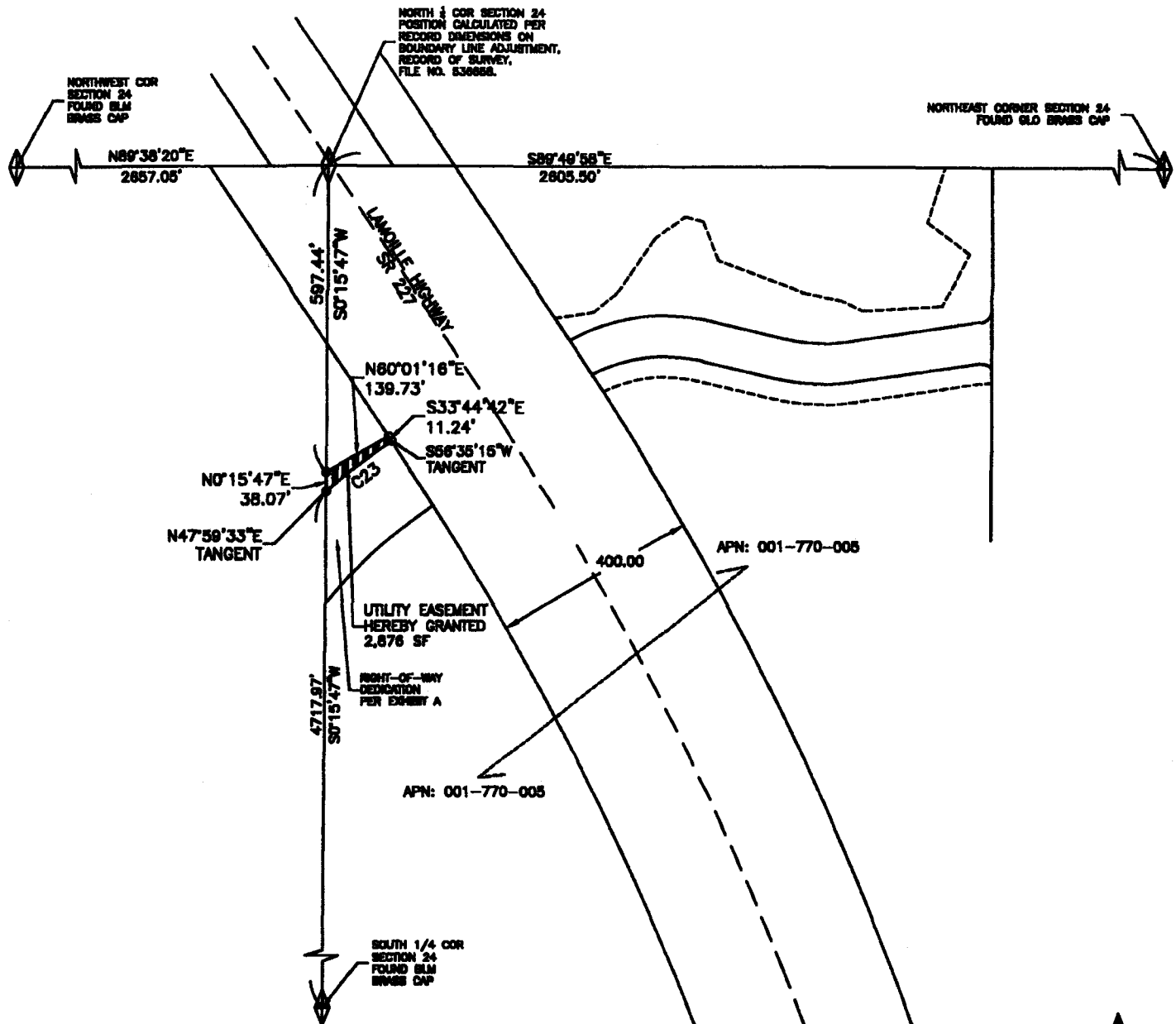
Description prepared by:

Robert Thibault, PE, PLS

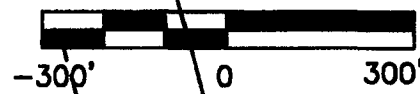
Civil Engineer for the City of Elko







Curve Table			
Curve #	Length	Radius	Delta
C23	161.26'	1075.00'	8°35'42"



CITY OF ELKO  
1781 COLLEGE AVE  
ELKO, NEVADA 89601  
775-777-7210

#### SCALE

HORZ 1"=300'

VERT NONE

DATE 5/27/21

## EXHIBIT F EASEMENT DISPLAY MAP UTILITY EASEMENT

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of a Grant of Easement for Utilities and Access on APN 001-630-100, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 22, 2021**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **10 Minutes**
5. Background Information: **The purpose of this proposed easement is to allow for the installation of an alternate sewer line to serve parcels along the future eastern extension of Silver Street to Manzanita Lane. This new sewer line would connect to an existing sewer along the railroad tracks at the southeasterly edge of this parcel. The existing sewer at the intersection of Silver Street and Walters Court is approximately 20' deep, making the extension of sewer from that location more difficult for both developers and the City. This easement request is in conjunction with a waiver of sewer installation for one or more lots on Silver Street to be presented separately. MR**
6. Budget Information:  

Appropriation Required: **N/A**  
Budget amount available: **N/A**  
Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Proposed Grant of Easement with Exhibits**
9. Recommended Motion: **Approve the Grant of Easement for Utilities and Access as presented.**
10. Prepared by: **Michele Rambo, AICP, Development Manager**
11. Committee/Other Agency Review: **David Stanton, City Attorney**
12. Council Action:
13. Council Agenda Distribution: **Parrado Partners, LP  
Attn: Andrea Park  
[andrea@cappshomes.com](mailto:andrea@cappshomes.com)**

APN: 001-630-100

After Recordation Return To:

City of Elko  
City Planner  
1751 College Avenue  
Elko, Nevada 89801

**GRANT OF EASEMENT**  
**(Utilities and Access)**

**THIS GRANT OF EASEMENT** is entered into this \_\_\_\_ day of \_\_\_\_\_, 2021 by and between **PARRADO PARTNERS, LP, a California limited partnership and GLORIA E. CAPPS, as Trustee of the GLORIA E. CAPPS REVOCABLE TRUST OF 1989, as amended January 25, 2011 ("Grantor")** and the **CITY OF ELKO, a political subdivision of the State of Nevada ("Grantee")**.

**W I T N E S S E T H :**

**WHEREAS**, Grantor is the owner of certain real property situate in the County of Elko, State of Nevada, more particularly described at **Exhibit "A"** and shown on the map at **"Exhibit B," Exhibits "A" and "B"** being attached hereto and by this reference made a part hereof, the foregoing property collectively referred to as the **"Easement Property,"** and

**WHEREAS**, Grantor desires to grant a permanent utility installation, maintenance, and access easement to Grantee and its successors and assigns over the Easement Property for the purposes of and on the terms and conditions set forth herein.

**NOW THEREFORE**, Grantor, for good and valuable consideration, receipt of which is hereby acknowledged, does here by agree as follows:

1. **Grant of Utility Easement.** Grantor hereby grants to Grantee and its successors, assigns, licensees, contractors, invitees and agents, a permanent exclusive easement and right-of-way, over, across, upon, under and through that portion of the Easement Property described on the **"Legal Description for a Utility Easement"** attached hereto at **Exhibit "A"** and depicted on the map entitled **"Display Map for a Utility Easement"** attached hereto at **Exhibit "B"** and made a part hereof, the easement being depicted thereon as **"UTILITY EASEMENT**

**GOICOECHEA, DI GRAZIA, COYLE & STANTON, LTD.**  
Attorneys at Law  
539 Idaho Street, P.O. Box 1368  
Elko, Nevada 89801 - (775) 738-8091



HEREBY GRANTED," for ingress and egress for the purpose of installation, construction, grading, excavation, operation, repair and maintenance of Grantee-owned utilities.

2. **Access; Use.** Except as provided in Section 1 above, Grantee shall not traverse, trespass on or disturb other portions of the Grantor's Property or other real property owned by Grantor without the prior written consent of Grantor.

**THIS GRANT OF EASEMENT** and the terms contained herein shall run with the land and become and be a burden on the Grantor's Property and shall be binding upon and shall inure to the benefit of Grantor and Grantee, and the successors, agents and assigns of Grantor and Grantee, and all the rights herein granted may be assigned.

**TO HAVE AND TO HOLD** all the singular the said premises, granted together with the appurtenances, unto said Grantee their successors, agents, contractors, licensees and assigns forever.

**IN WITNESS WHEREOF**, Grantor and Grantee have caused these presents duly to be executed the day and year first above written.

**GRANTOR:**

**PARRADO PARTNERS, LP, a California  
limited partnership**

By: *General Partner*  
Parrado Partners President  
Its: *James L. Lewis*

**GRANTEE:**

**CITY OF ELKO, a political subdivision of  
the State of Nevada**

By: \_\_\_\_\_  
**REECE KEENER**  
Mayor, City of Elko

**GLORIA CAPPS, TRUSTEE OF THE  
GLORIA E. CAPPS REVOCABLE  
TRUST OF 1989, AS AMENDED  
JANUARY 25<sup>TH</sup>, 2011**

**SEE ATTACHED  
NOTARY CERTIFICATE**

STATE OF NEVADA                    )  
  : ss.  
COUNTY OF ELKO                    )

**SEE ATTACHED  
NOTARY CERTIFICATE**

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_,  
2021, by Reece Keener, as City of Elko Mayor, on behalf of said entity, as therein named.

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

STATE OF NEVADA                    )  
  : ss.  
COUNTY OF ELKO                    )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_,  
2021, by \_\_\_\_\_.

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

STATE OF NEVADA                    )  
  : ss.  
COUNTY OF ELKO                    )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_,  
2021, by Gloria Capps.

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

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of CONTRA COSTA

On 5-25-2021 before me, Randy Maderios Notary Public  
(insert name and title of the officer)

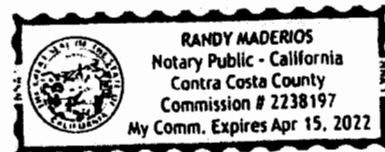
personally appeared JAMES LEWIS  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Randy Maderios

(Seal)





**Exhibit A**  
**LEGAL DESCRIPTION FOR A UTILITY EASEMENT**

A twenty-foot wide strip of land within Parcel no. 3, as shown on the Parcel Map for Parrado Partners, LP et al, recorded in the office of the Elko County Recorder as file no. 733089, also located within the south half of Section 11, Township 34 North, Range 55 East, M.D.B. & M. which is further described as follows;

Beginning at a point along the northwesterly boundary of said Parcel no. 3, which bears South 41°04'25" West, a distance of 1,021.21 feet, from the northerly most corner of said Parcel no. 3;

Thence, South 48°55'35" East, a distance of 265.73 feet, more or less, to the southeasterly boundary of said Parcel no. 3;

Thence, along southeasterly boundary of said Parcel no. 3, South 26°29'17" West, a distance of 20.67 feet;

Thence, North 48°55'35" West, a distance of 270.94 feet, more or less, to the northwesterly boundary of said Parcel no. 3;

Thence, along said northwesterly boundary of said Parcel no. 3, North 41°04'25" East, a distance of 20.00 feet, more or less, to the point of beginning.

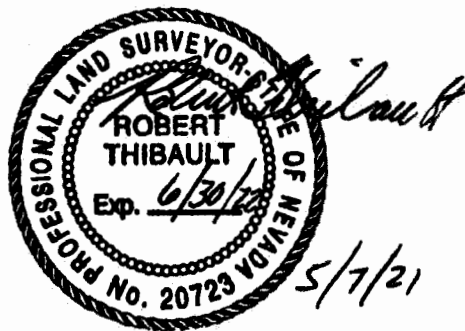
This Utility Easement contains ±5,367 square feet.

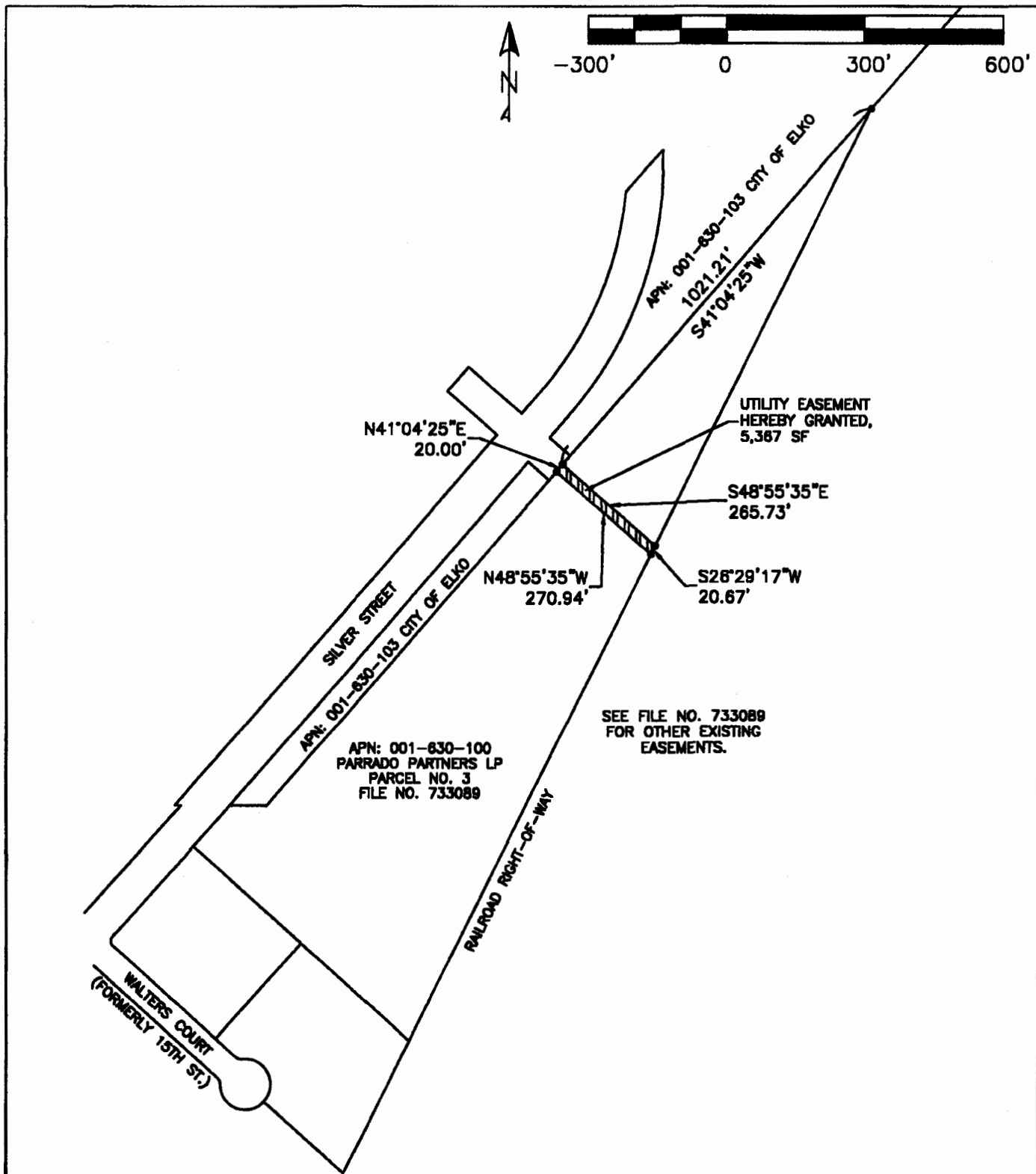
The Basis of Bearings for this description is the Parcel Map for Parrado Partners, LP et al, recorded in the office of the Elko County Recorder as file no. 733089.

Description prepared by:

Robert Thibault, PE, PLS

Civil Engineer for the City of Elko





CITY OF ELKO  
1751 COLLEGE AVE  
ELKO, NEVADA 89801  
775-777-7210

## EXHIBIT B

### DISPLAY MAP FOR A UTILITY EASEMENT

APN: 001-630-100

After Recordation Return To:

City of Elko  
City Planner  
1751 College Avenue  
Elko, Nevada 89801

**GRANT OF EASEMENT**  
**(Utilities and Access)**

**THIS GRANT OF EASEMENT** is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by and between **PARRADO PARTNERS, LP, a California limited partnership and GLORIA E. CAPPS, as Trustee of the GLORIA E. CAPPS REVOCABLE TRUST OF 1989, as amended January 25, 2011 ("Grantor")** and the **CITY OF ELKO, a political subdivision of the State of Nevada ("Grantee")**.

**W I T N E S S E T H :**

**WHEREAS**, Grantor is the owner of certain real property situate in the County of Elko, State of Nevada, more particularly described at **Exhibit "A"** and shown on the map at **"Exhibit B," Exhibits "A" and "B"** being attached hereto and by this reference made a part hereof, the foregoing property collectively referred to as the "Easement Property;" and

**WHEREAS**, Grantor desires to grant a permanent utility installation, maintenance, and access easement to Grantee and its successors and assigns over the Easement Property for the purposes of and on the terms and conditions set forth herein.

**NOW THEREFORE**, Grantor, for good and valuable consideration, receipt of which is hereby acknowledged, does here by agree as follows:

1. **Grant of Utility Easement.** Grantor hereby grants to Grantee and its successors, assigns, licensees, contractors, invitees and agents, a permanent exclusive easement and right-of-way, over, across, upon, under and through that portion of the Easement Property described on the "Legal Description for a Utility Easement" attached hereto at **Exhibit "A"** and depicted on the map entitled "Display Map for a Utility Easement" attached hereto at **Exhibit "B"** and made a part hereof, the easement being depicted thereon as "UTILITY EASEMENT

**GOICOECHEA, DI GRAZIA, COYLE & STANTON, LTD.**  
Attorneys at Law  
530 Idaho Street, P.O. Box 1358  
Elko, Nevada 89801 - (775) 738-8091



HEREBY GRANTED," for ingress and egress for the purpose of installation, construction, grading, excavation, operation, repair and maintenance of Grantee-owned utilities.

2. **Access; Use.** Except as provided in Section 1 above, Grantee shall not traverse, trespass on or disturb other portions of the Grantor's Property or other real property owned by Grantor without the prior written consent of Grantor.

**THIS GRANT OF EASEMENT** and the terms contained herein shall run with the land and become and be a burden on the Grantor's Property and shall be binding upon and shall inure to the benefit of Grantor and Grantee, and the successors, agents and assigns of Grantor and Grantee, and all the rights herein granted may be assigned.

**TO HAVE AND TO HOLD** all the singular the said premises, granted together with the appurtenances, unto said Grantee their successors, agents, contractors, licensees and assigns forever.

**IN WITNESS WHEREOF**, Grantor and Grantee have caused these presents duly to be executed the day and year first above written.

**GRANTOR:**

**PARRADO PARTNERS, LP, a California  
limited partnership**

**GRANTEE:**

**CITY OF ELKO, a political subdivision of  
the State of Nevada**

By: Gloria E. Capps, Trustee

By: \_\_\_\_\_

Its: \_\_\_\_\_

**REECE KEENER  
Mayor, City of Elko**

**GLORIA CAPPS, TRUSTEE OF THE  
GLORIA E. CAPPS REVOCABLE  
TRUST OF 1989, AS AMENDED  
JANUARY 25<sup>TH</sup>, 2011**

STATE OF NEVADA )  
 : SS.  
COUNTY OF ELKO )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by Reece Keener, as City of Elko Mayor, on behalf of said entity, as therein named.

NOTARY PUBLIC

STATE OF NEVADA )  
 : SS.  
COUNTY OF ELKO )

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_.

NOTARY PUBLIC

*California*  
STATE OF ~~NEVADA~~ )  
 : SS.  
COUNTY OF ~~ELKO~~ *San Mateo* )  
*msu*

This instrument was acknowledged before me on this 02 day of June, 2021, by Gloria Capps.



*Maribel Sanchez Aguilera*  
NOTARY PUBLIC

**Exhibit A**  
**LEGAL DESCRIPTION FOR A UTILITY EASEMENT**

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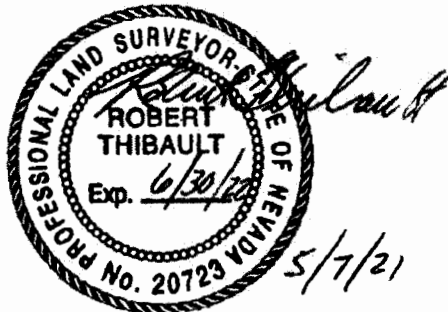
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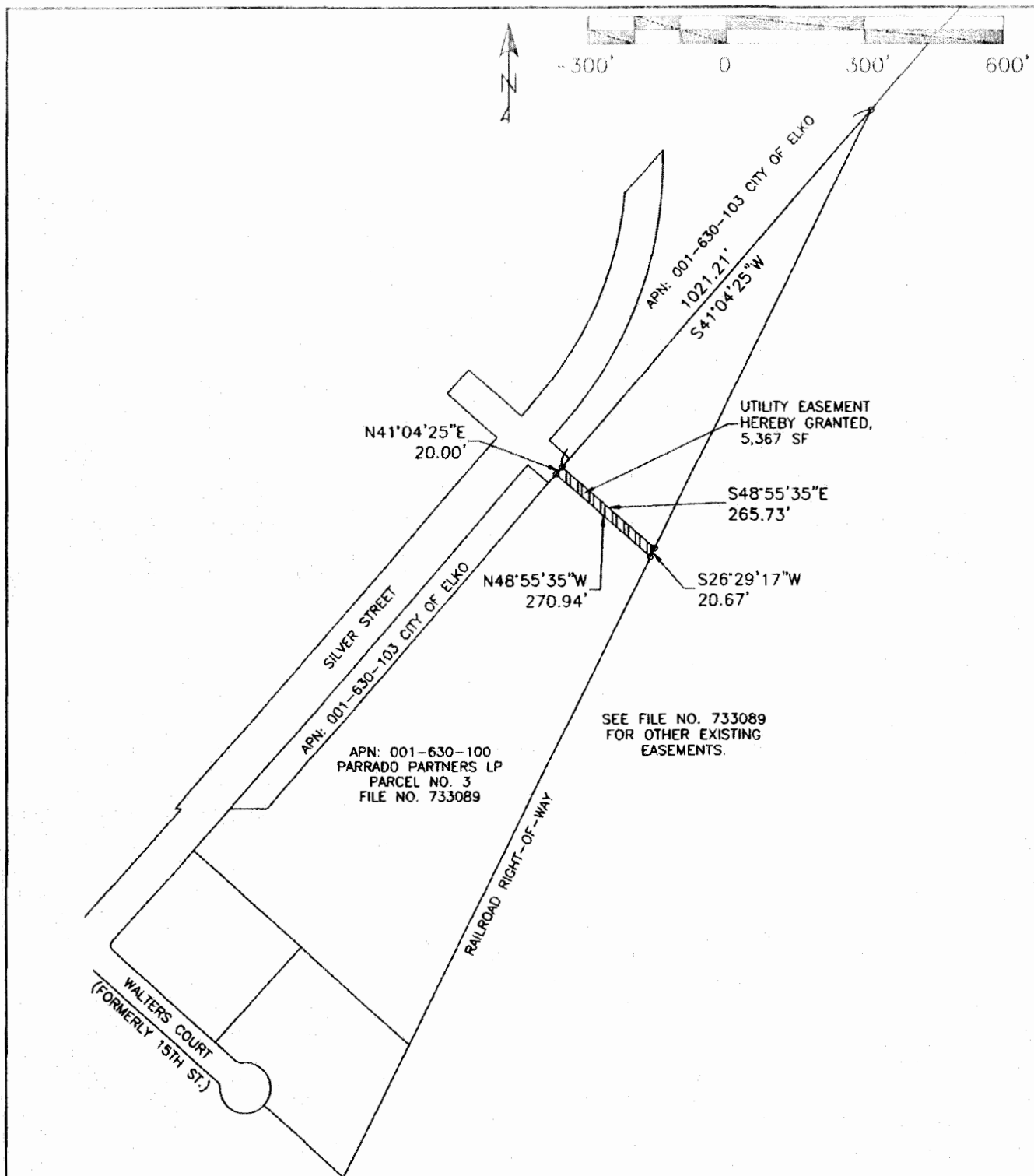
The Basis of Bearings for this description is the Parcel Map for Parrado Partners, LP et al, recorded in the office of the Elko County Recorder as file no. 733089.

Description prepared by:

Robert Thibault, PE, PLS

Civil Engineer for the City of Elko





CITY OF ELKO  
1751 COLLEGE AVE  
ELKO, NEVADA 89801  
775-777-7210

## EXHIBIT B

### DISPLAY MAP FOR A UTILITY EASEMENT



**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of a request to waive the requirement to extend sanitary sewer across the frontage of 1515 Silver Street (APN 001-375-001), and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 22, 2021**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **5 Minutes**
5. Background Information: **The up gradient properties will be serviced by another sewer main. The extension of this sewer main is unlikely to serve any new customers in the future based on currently available planning and development projections. Future sewer customer's will service through the Capps sewer easement crossing their Silver Street Property back to the main transmission line to the WRF. DJ**
6. Budget Information:  

**Appropriation Required: N/A**  
**Budget amount available: N/A**  
**Fund name: N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Request letter from Shanks Engineering**
9. Recommended Motion: **Move to approve waiver request**
10. Prepared by: **Dale Johnson, Utilities Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

# Shanks Enterprises Inc.

May 14, 2021

Dale Johnson  
City of Elko  
Utilities Director

RE: Igloo sewer extension along Silver St.

Dear Mr. Johnson,

On behalf of the Igloo Inc., and as the project engineer and member of the board of directors I am requesting a waiver to not install the sewer along the Igloo's frontage. Extending the sewer main would not provide service to any up-gradient properties. All up-gradient properties from the Igloo would be serviced through the Easement provided by the Capp's Silver Street Property.

Thank you for your consideration.

Sincerely,  
Shanks Enterprises Inc.  
The Igloo Inc.



Michael E. Shanks, P.E.

Cc: Matt Burwell, President of the Igloo Inc  
Gary Klug, Treasurer

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review and possible approval of the City of Elko Investment Policy, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 22, 2021**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **10 Minutes**
5. Background Information: **Staff will present the City of Elko Investment Policy for City Council consideration JB**
6. Budget Impact Statement:  
  
    Appropriation Required: **N/A**  
    Budget amount available: **N/A**  
    Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **N/A**
9. Recommended Motion: **Approve the City of Elko Investment Policy**
10. Prepared by: **Jan Baum, Financial Services Director**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

# **CITY OF ELKO**

## **INVESTMENT AND PORTFOLIO POLICY**



Jan Baum, Financial Services Director

June, 2021



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## **I. INTRODUCTION**

It is the policy of the City of Elko ("City") to invest cash resources to obtain market rates of return on investments, while meeting the daily cash flow demands, in a safe and prudent manner. The purpose of this Investment Policy is to establish the investment objectives, delegation of authority, standards of prudence, eligible investments and transactions, internal controls, reporting requirements and custodial procedures necessary for the prudent management and investment of the City's funds.

This policy will ensure the prudent investment of the City financial resources, adherence to the NRS 355.170 and 355.171 applicable to the investment of public funds, maintenance of daily liquidity requirements, anticipation of future cash requirements and realization of competitive rate of return on investment.

## **II. SCOPE**

This Policy applies to the investment activities of the City's "pooled" financial assets. Except for funds in certain restricted and special funds, the City commingles its funds to maximize investment earnings and to decrease inefficiencies regarding investment pricing, safekeeping and administration. Investment income will be allocated to the various funds based on the cash balance of the fund at the end of the month corresponding with the month the interest is earned. Pooled funds include, but are not limited to; General Fund, Special Revenue Funds, Capital Project Funds, Enterprise Funds, Debt Service Funds, Internal Service Funds, Trust and Agency Funds. Non-pooled investments, if any, consist of special assessment bond proceeds.

## **III. OBJECTIVES**

The primary objectives of the City's investment activities, in priority order are as follows:

- a. **Safety** - Safety of principal is the foremost objective of the investment program. Investments shall be undertaken to ensure the preservation of principal in each account.
- b. **Liquidity** – The City's investment portfolio will remain sufficiently liquid to enable the City to meet all operating requirements which might be reasonably anticipated.
- c. **Return on Investment** – The City's portfolio shall be invested with the objective of obtaining an appropriate market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints of safety and cash flow needs of the City.

## **IV. AUTHORIZATION**

Funds of the City will be invested in compliance with the provisions of Nevada Revised Statutes (NRS) Chapter 355.167 through 355.200, and other applicable statutes including Chapter 350.659. Investment will be in accordance with these policies and written administrative procedures. Investment of any tax-exempt borrowing proceeds and of any

Debt Service Fund will comply with the 1986 Tax Reform Bill provisions to the Internal Revenue Code Sections 148 which deals with arbitrage.

**V. STANDARDS OF CARE**

- A. Prudence:** The standard of prudence to be used by the delegated staff in the course of their investment activities shall be the "prudent person" standard and shall be applied in the context of managing an overall portfolio. Delegated staff acting in accordance with written procedures, this Policy, and exercising due diligence shall not be held personally liable for an individual security's credit risk or market price changes, provided deviations from expectations are reported and appropriate action is taken to control adverse developments in a timely manner.

As used in this Policy, the "prudent person" standard means the delegated staff "shall exercise the judgement and care, under circumstances then prevailing, which a person of prudence, discretion and intelligence exercises in the management of his or her own affairs, not in regard to speculation, but in regard to investment, considering the probable income as well as the probably safety of his or her capital."

- B. Delegation of Authority:** The investment function of the City of Elko is performed by the Financial Services Director (or "Investment Officer") under the Supervision of the City Manager and guidance of this policy and acknowledgement of the Elko City Council. Responsibility for the operation of the investment program is hereby delegated to the Investment Officer, who shall act in accordance with established written procedures and internal controls for the operation of the investment program consistent with this investment policy. The Financial Services Director, as the Investment Officer, may further delegate the authority to invest City funds to additional City Finance personnel. At a minimum, procedures should include references to the following: safekeeping, delivery vs. payment, investment accounting, repurchase agreements, wire transfer agreements, and collateral/depository agreements. The Investment Officer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Investment Officer. All participants in the investment process shall seek to act responsibly as custodians of the public trust.
- C. Ethics and Conflicts of Interest:** Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the City.

## **VI. AUTHORIZED AND PROHIBITED INVESTMENTS**

All temporarily idle or surplus funds of the City shall be invested in accordance with the principles of sound treasury management and in accordance with the provisions of Nevada Revised Statutes (NRS) Chapters 355.170 – 171 and this Investment Policy. The investments authorized in the City's Investment Policy are more restrictive than the universe of investment options allowable in NRS, keeping in line with the City's program objectives and risk parameters.

### **A. The following are authorized investments**

#### **U.S. Treasury Bonds, Debentures, Bills and Notes (NRS 355.170 1(a) & 1(e))**

**US Agency Obligations** of the following agencies/instrumentalities of the United States of America including both debentures and mortgage-backed securities (NRS 355.170 1(f))

1. Federal National Mortgage Association (FNMA)
2. Federal Home Loan Mortgage Corporation (FHLMC)
3. Federal Home Loan Bank (FHLB)
4. Federal Farm Credit Banks Funding Corporation (FFCB)
5. Other departments and agencies of the United States including Government National Mortgage Association (GNMA) and other agency or instrumentality of the United States of America or corporate sponsored by the government.
6. Purchases of US Agency Obligations in aggregate can represent 100% of the total portfolio.

**Supranational Notes**, bond or other obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, the International Finance Corporation, or the Inter-American Development Bank that: (NRS 355.170 1(b))

1. Is denominated in United States Dollars
2. Is a senior unsecured unsubordinated obligation.
3. At the time of purchase have a remaining term to maturity of no more than 5 years.
4. Are rated by at least one nationally recognized rating service as "AA-" or its equivalent, or better.
5. Purchases of Supranational may not exceed 15% on day of purchase.

**Corporate Securities:** Notes, bonds, and other unconditional obligations for the payment of money issued by corporations organized and operating in the United States (Corporates) (NRS 355.171 1 (a)).

1. Are purchased from a registered broker-dealer.
2. At the time of purchase have a remaining term to maturity of no more than 5 years.
3. Are rated by at least one nationally recognized rating service as "A-" or its equivalent, or better.



4. Not more than 25% of such investments may be in notes, bonds, and other unconditional obligations issued by any one corporation (no more than 5% per counterparty).

**Foreign Corporate or Government Notes, bond or other obligations publicly issued in the United States by a foreign financial institution corporation or government: (NRS 355.170 1(c))**

1. Is denominated in United States Dollars.
2. Is a senior unsecured unsubordinated obligation.
3. Is registered with the Securities and Exchange Commission in accordance with the provisions of the Securities Act of 1933, as amended.
4. Is publicly traded.
5. Is purchased from a registered broker-dealers.
6. At the time of purchase has a remaining term of 5 years or less; and
7. Is rated by a nationally recognized rating services as AA- or its equivalent, or better.
8. Purchases of Foreign Corporates or Governments in aggregate may not exceed 10 percent as determined on the date of purchase.

**Collateralized Mortgage Obligations (CMOs) (NRS 355.171 1(b))**

1. Must be rated "AAA" or equivalent by an NRSRO.
2. CMOs may not exceed 25 percent as determined on the date of purchase.

**Asset-Backed Securities (ABSs) (NRS 355.171 1(c))**

1. Must be rated "AAA" or equivalent by an NRSRO.
2. ABS may not exceed 25 percent as determined on the date of purchase.

**Municipal Obligations (NRS 355.170 1(j) & 1(l))**

1. Obligations of local governments within the State of Nevada pursuant to NRS 350.087 to 350.095, inclusive. Subject to limitations contained in NRS 355.177.
2. Obligations of all other state and local governments of states other than Nevada if the interest on the obligation is federally tax exempt and rated "A-" or higher by one or more Nationally Recognized Statistical Rating Organization (NRSRO).
3. Municipals may not exceed 20 percent as determined on the date of purchase.

**Commercial Paper (NRS 355.170 1 (m))**

1. Issued by a corporation organized and operating in the U.S. or by a depository institution licensed by the U.S. or any state operating in the U.S.
2. Purchased from a registered broker/dealer.
3. At the time of purchase has a remaining term to maturity of no more than 270 days.
4. Is rated "A-1", "P-1", "F-1" or equivalent or better by at least one NRSRO.
5. Commercial paper may not exceed 25 percent as determined on the date of purchase.

**Negotiable Certificates of Deposit (NCD's) (NRS 355.170 1(g))**

1. Negotiable certificates of deposit issued by commercial banks, credit unions, or savings and loan associations.
2. Is rated by a nationally recognized rating services as A- or its equivalent, or better.
3. Purchase of negotiable Certificates of Deposit may not exceed 20 percent as determined on the date of purchase.

**Non-Negotiable Certificate of Deposit (CD's) (NRS 355.170 1(i))**

1. Nonnegotiable certificates of deposit issued by insured commercial banks, insured credit unions, or insured savings and loan associations. Certificates above the limits of FDIC insurance must be collateralized pursuant to NRS 356.133.
2. Certificates of deposit may not exceed 20 percent as determined on the date of purchase.

**Demand Deposits, Time and Savings Deposits (NRS 356.300)**

1. Issued by insured commercial banks, insured credit union or insured saving and loan associations, either within the limits of insurance provided by an instrumentality of the United States and/or collateralized as required under the Nevada pooled collateral program (NRS 356).
2. Holdings of bank deposits may not exceed 50 percent of the total portfolio.

**Money Market Mutual Funds (NRS 350.658 1 (b))**

1. Use of money market mutual funds are limited to funds which are registered with the Securities and Exchange Commission (SEC), are rated "AAA" by a NRSRO and invest only in securities issued by the federal government or agencies of the federal government or repurchases agreements fully collateralized by such securities in accordance with NRS 350.658 1 (b)).
2. Holdings of money market mutual funds may not exceed 50 percent of the total portfolio.

**Bankers' Acceptances (NRS 355.170 1(k))**

1. Bankers' acceptances of the kind and maturities made eligible by law for rediscount with Federal Reserve Banks, and generally accepted by banks or trust companies of the Federal Reserve system. Eligible bankers' acceptances may not exceed 180 days' maturity.
2. Purchases may not exceed 20 percent of the money available by a local government for investment as determined at time of purchase.

**State of Nevada Local Government Investment Pool ("LGIP") (NRS 355.167)** as established by the Nevada State Treasurer for the benefit of local agencies.

- B. Prohibited Investments:** NRS 355.170 does not specifically address the use of derivatives. For the purpose of this regulation and the City's investment program, a derivative is a financial instrument created from or whose value depends on the value of one or more underlying assets or basket of assets and is prohibited. This definition and prohibition do not include some investments, such as callable bonds with embedded options and floating rate notes, that are allowable under NRS 355.170.
- C. Downgrade Action:** If the credit rating of the security is subsequently downgraded below the minimum rating level, the Financial Services Director or designated staff will evaluate the downgrade on a case-by-case basis in order to determine if the security should be held or sold. The Financial Services Director or designated staff will apply the general objectives of safety, liquidity, yield and legality to make the decision.

## VII. INVESTMENT PARAMETERS

### A. Diversification:

Assets held in the investment portfolio shall be diversified to eliminate the risk of loss resulting from over-concentration of assets in a specific class of securities. With the exception of United States Treasury, government agency securities, money market funds, and FDIC insured certificate of deposits, no more than 25% of the total market value of the portfolio will be invested in a single security type, and no more than 5% shall be invested in any one issuer. The constraints will provide for a disciplined guide in making investment decisions.

Issuer	Maximum % Holdings Par Value	Maximum % Per Issuer Par Value	Maturity at Time of Purchase	Ratings Equivalent S&P, Moody's or Fitch
US Treasury Obligations	100%	N/A	10 years	N/A
US Agency Obligations	100%	35%	10 years	N/A
Supranationals (IBRD, IFC, IADB Only)	15%	5%	5 years	AA-/Aa3/AA-
US Corporate Securities	25%	5%	5 years	A-/A3/A-
Foreign Corporate of Government Notes	10%	5%	5 years	AA-/Aa3/AA-
Collateralized Mortgage Obligations	25%	5%	5 years **	AAA/Aaa/AAA
Asset-Backed Securities	25%	5%	5 years **	AAA/Aaa/AAA
Municipal Bonds	20%	5%	5 years	AA-/Aa3/AA-
Commercial Paper	25%	5%	270 days	A1/P1/F1
Negotiable Certificates of Deposit	20%	5%	5 years	A-/A3/A-
Non-Negotiable Certificates of Deposit	20%	10%	5 years	*
Money Market Funds	50%	25%	N/A	AAAm
Demand Deposits	50%	None	N/A	*
Bankers' Acceptance Notes	20%	5%	180 days	N/A
State LGIP	50%	None	N/A	N/A

\*Nevada Pooled Collateral Program

\*\* Weighted Average Life is used for mortgage securities

### B. Maturity Constraints:

1. **Liquidity:** To the extent possible, investment maturities must match the anticipated cash flow requirements. Portfolio management procedures will provide for the assessment of net cash flow positions for at least a month period.
2. **Market Risk:** Market risk relates to the continuous price fluctuations of marketable securities that may result in a loss to the City if cash flow requirements force a premature sale. Portfolio maturities must be structured to avoid the forced sale of securities in any but the most severe circumstances. To this end, portfolio management procedures will provide for the projection of a "Minimum Liquidity Requirement" for the City's operating fund.
3. **Minimum Liquidity Requirement:** This is defined as the total cash flow needed to pay City obligations for a period of four weeks. All securities to be included in the "Minimum Liquidity Requirement" must mature within 30 days.
4. **Intermediate Market Investment:** That portion of City funds remaining after deletion of the "Minimum Liquidity Requirement" may be invested in the intermediate market, defined herein as instruments maturing between zero and ten years.
5. **Long-Term Investments:** No US bonds, debentures, bills, notes, agency obligations or other securities may have a maturity date of more than 10 years from the date of purchase. ABS and CMO securities are an exemption to this rule and the expected maturity (weighted average life) will be used.

#### **VIII. FUNDS INVESTED WITH THE STATE TREASURER**

Funds invested with the State Treasurer in the LGIP or NVEST portfolios may be invested as permitted by NRS 355.167.

The City may utilize the managers under the State of Nevada's Long-Term Investment Program (NVEST). The City requires the managers to invest within the constraints of this investment policy.

It is understood that monies invested in the NVEST program are not needed to meet a Participant's liquidity or cash flow needs. The treasurer or other official responsible for the administration and management of any city funds shall determine what amount of funds are available for investment in NVEST based on historical and projected cash flow requirements and other factors. Nevertheless, only relatively liquid marketable securities will be purchased by the Investment Manager so that in unforeseen circumstances or in the case of the termination of the NVEST account or Investment Manager by the Participant, securities may be efficiently sold in the open market.

#### **IX. SAFEKEEPING/CUSTODY AND DELIVERY**

Securities purchased by the City of Elko, as well as collateral for time certificates of deposit over the current FDIC insurance limit, shall be delivered against payment and held in a custodial safekeeping account with the trust department of a bank acting as a third-party custodian. (NRS 355.172)



**X. AUTHORIZED BROKER/DEALERS, INVESTMENT ADVISORS, AND FINANCIAL BANK INSTITUTIONS**

**A. Broker/Dealers:**

The City Financial Services Director will maintain a list of approved broker/dealers and financial institutions which are authorized to provide investment services to the City. Authorized broker/dealers will be limited to "primary" dealers or other dealers that qualify under SEC Rule 15C3-1, the Uniform Net Capital Rule.

The City Financial Services Director or designee may utilize an investment advisor's approved broker/dealer list in lieu of the City's own approved list. The advisor must submit the approved list to the City annually and provide updates throughout the year as they occur. The advisor must maintain documentation of appropriate license and professional credentials of broker/dealers on the list.

The annual investment advisor broker/dealer review procedures include:

- a. FINRA Certification check:
  - i. Firm Profile
  - ii. Firm History
  - iii. Firm Operations
  - iv. Disclosures of known arbitration awards, disciplinary and regulatory events
  - v. State Registration Verification
- b. Financial review of acceptable FINRA capital or letter of credit for clearing settlements.

**B. Investment Advisors:**

The City Financial Services Director may contract with investment managers. Any such investment manager shall hold the 'Registered Investment Advisor' designation with the SEC. Such managers shall sign contracts affirming their acceptance of fiduciary responsibility for funds under their management and follow the precepts of the City's investment policy and any other written restrictions placed upon them. Such money managers, once approved by the State Board of Finance, may additionally invest in securities as defined in NRS 355.171.

**C. Financial Bank Institutions:**

The City will hold deposits in qualified public depositories by insured commercial banks, insured credit union or insured saving and loan associations, either within the limits of insurance provided by an instrumentality of the United States and/or collateralized as required under the Nevada pooled collateral program (NRS 356).

**XI. REPORTING**

The City Financial Services Director will make available at any time upon request of the Finance Department or City Manager sufficient information to permit an evaluation of the performance of the investment program. The purpose for these reports will be formulate suggestions for improved future performance, and to verify that authorized city finance personnel have acted in accordance with the investment policy.

## **XII. PERFORMANCE EVALUATION**

The City's portfolio will be invested to obtain a rate of return consistent with its cash flow requirements and risk constraints, and the dependence upon budgetary and economic factors. The City's investment strategy is generally that of a "buy-and-hold" investor, but the City also has the ability to take advantage of market opportunities as they occur by analyzing projected cash flow to assess the availability of uncommitted money. Given this strategy, the benchmark used by the City to determine whether competitive market yields are being achieved will be comparing the portfolio's yield to a custom benchmark that contains the "prominent and persistent" characteristic of the portfolio. This benchmark will be adjusted periodically when material, long-term changes of the portfolio's sector allocations and weighted average maturity occur.

## **XIII. INTERNAL CONTROLS**

The investment portfolio will be audited annually by the City's independent auditor.

## **XIV. INVESTMENT OF BOND PROCEEDS**

If bond covenants are more restrictive than this policy, the bond proceeds will be invested in full compliance with those restrictions.

## **XV. ADOPTION**

Adopted by the Elko City Council

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Mayor Reece Keener

Date:

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review and possible selection of a planning firm to provide planning services for a focused planning study at the Elko Regional Airport, and matters related thereto. FOR POSSBLE ACTION**
2. Meeting Date: **June 22, 2021**
3. Agenda Category: **NEW BUISNESS**
4. Time Required: **5 Minutes**
5. Background Information: **The airport has been conducting a search for a planning firm to provide services at the airport for an upcoming AIP funded project for a Focused Planning Study. The selection committee short listed four (4) firms to continue with the interview portion of the process. The interviews were held May 26/27, 2021. The Airport selection committee interviewed four (4) engineering/planning firms: Coffman Associates, Jviation Inc, Kimley-Horn and Farr West Engineering. The selection committee recommends that the Council select Coffman Associates for the focused planning study service contract. Upon selection, Staff will negotiate a Professional Services Agreement with the successful firm. This new agreement will be brought back to Council for review and approval. JF**
6. Budget Information: **N/A**  

Appropriation Required:  
Budget amount available:  
Fund name:
7. Business Impact Statement: **N/A**
8. Supplemental Agenda Information: **Selection Scores of Interviewed Firms and the Initial Submittal Review Ranking Sheet.**
9. Recommended Motion: **Move to select Coffman Associates for the focused planning study at the Elko Regional Airport, and direct Staff to negotiate a Professional Services Agreement with them.**
10. Prepared by: **Jim Foster, Airport Manager**
11. Committee/Other Agency Review: **N/A**
12. Council Action:
13. Agenda Distribution: **Matt Quick**  

**4835 E. Cactus Rd., Suite 235**  
**Scottsdale, AZ 85254**  
**[mquick@coffmanassociates.com](mailto:mquick@coffmanassociates.com)**

2021 RFQ Tally Sheet

[illegible]



**Elko City Council  
Agenda Action Sheet**

1. Title: **Consideration and possible authorization for Staff to advertise for four (4) vacant positions on the Parks and Recreation Advisory Board, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 22, 2021**
3. Agenda Category: **NEW BUSINESS**
4. Time Required: **5 Minutes**
5. Background Information: **On June 30, 2021 the terms of four (4) board members will expire. All members are eligible for reappointment following an advertisement related to the term's expiration. JW**
6. Budget Information:  

Appropriation Required:  
Budget amount available:  
Fund name:
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information:
9. Recommended Motion: **Authorize Staff to advertise for four (4) vacant positions on the Parks and Recreation Advisory Board.**
10. Prepared by: **James Wiley, Director of Parks and Recreation**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution:

**Elko City Council  
Agenda Action Sheet**

1. Title: **First reading of proposed Ordinance 863 amending Elko City Code Title 9, Chapter 6 (Illegal Discharge and Connection to Stormwater), Chapter 7 (Construction Site Runoff Control), and Chapter 8 (Postconstruction Runoff Control and Water Quality Management), and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 22, 2021**
3. Agenda Category: **ORDINANCE**
4. Time Required: **10 Minutes**
5. Background Information: **The City of Elko Stormwater Program was audited by the Nevada Department of Environmental Protection and the Environmental Protection Agency in August 2020. One of the findings of that audit was that current enforcement regulations were lacking in both clarity and implementation. As a result, the audit report required the City to update its stormwater codes with enhanced enforcement procedures. Other modifications have been proposed to clarify existing policies and procedures. MR**

**The City Council initiated the proposed changes on June 8, 2021. MR**

6. Budget Information:  

Appropriation Required: N/A  
Budget amount available: N/A  
Fund name: N/A
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Copy of Ordinance No. 863**
9. Recommended Motion: **Conduct first reading of Ordinance No. 863 and direct City Staff to set the matter for second reading, public hearing, and possible adoption.**
10. Prepared by: **Michele Rambo, AICP, Development Manager**
11. Committee/Other Agency Review: **Dave Stanton, City Attorney**
12. Council Action:
13. Agenda Distribution:

## ORDINANCE 863

### AN ORDINANCE AMENDING ELKO CITY CODE TITLE 9, CHAPTER 6 (ILLEGAL DISCHARGE AND CONNECTION TO STORMWATER), CHAPTER 7 (CONSTRUCTION SITE RUNOFF CONTROL), AND CHAPTER 8 (POSTCONSTRUCTION RUNOFF CONTROL AND WATER QUALITY MANAGEMENT) TO MODIFY REGULATIONS REGARDING ENFORCEMENT OF STORMWATER AND OTHER RELEVANT MODIFICATIONS

**WHEREAS**, the Nevada Department of Environmental Protection and the Environmental Protection Agency conducted an audit of the City's stormwater program in August 2020; and

**WHEREAS**, the audit report identified several deficiencies with the City enforcement program of stormwater regulations; and

**WHEREAS**, the City Council initiated Ordinance 863 on June 8, 2021 to modify the stormwater regulations to conform with current state and federal permit requirements.

**NOW THEREFORE, IT BE ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELKO, NEVADA.**

**Section 1: Title 9, Chapter 6 of the Elko City Code is hereby amended to read as follows:**

#### **9-6-1: PURPOSE:**

The purpose of this ~~e~~Chapter is to provide for the health, safety and general welfare of the ~~citizens residents of the City~~ through regulation of non-stormwater discharges to the ~~municipal separate storm sewer system (MS4), waters of the United States, and or stormwater watercourses~~. This ~~e~~Chapter establishes methods for controlling the introduction of pollutants into the ~~municipal separate sewer system (MS4) in order~~ to comply with the ~~n~~National ~~p~~Pollutant ~~d~~Discharge ~~e~~Elimination ~~s~~System (NPDES) permit process and to:

- A. Regulate the contribution of pollutants to the ~~municipal separate stormwater sewer system (MS4) by stormwater~~ resulting from discharges ~~by any user~~,
- B. Prohibit illegal connections and discharges to the ~~municipal separate storm sewer system MS4~~, and
- C. ~~Establish legal authority to carry out all~~ Provide for the inspection, surveillance and monitoring procedures necessary to ensure compliance with this ~~e~~Chapter. ~~(Ord. 670, 3-13-2007)~~

#### **9-6-2: DEFINITIONS:**

~~For the purpose of this chapter, the following shall mean~~ As used in this Chapter, unless the context otherwise requires, the words and terms defined in this section shall have the following meanings:

~~**AUTHORIZED ENFORCEMENT AGENCY:** The director of the municipal agency designated to enforce this chapter or the director employees or the director designees.~~

BEST MANAGEMENT PRACTICES (BMPs): Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to the MS4, a watercourse, or waters of the United States, to include stormwater, receiving water, or stormwater conveyance systems. ~~and also~~ BMPs include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. BMPs may be structural or nonstructural.

CITY: The City of Elko, Nevada to include its departments, agencies, officials, and employees.

CLEAN WATER ACT: ~~The federal water pollution control act (33 USC 1251 et seq.), and any subsequent amendments thereto.~~ The Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended Pub. L. 95-576, Pub. L. 96-483, and Pub. L. 97-117, 33 U.S.C. 1251 et seq.

COMMERCIAL ACTIVITY: A task, conduct, enterprise, or undertaking of any kind with the goal of earning an economic profit.

CONSTRUCTION ACTIVITY: ~~Activities~~ An activity subject to an NPDES construction stormwater general permits issued by the ~~s~~State of Nevada. The term "construction activity" includes NPDES construction activities on a land disturbance of one (1) acre or more. The term "construction activity" also includes a land disturbance of less than one (1) acre if part of a larger common plan of development or sale that disturbs, or is proposed to disturb, one (1) acre or more. ~~Construction activities on from six thousand (6,000) square feet to one acre not subject to NPDES construction permits are also included in this definition.~~ Such activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition.

CONTAMINANT: Any physical, chemical, biological, or radiological substance or matter which is added to water.

DIFFUSE SOURCE: Any source of water pollution which is diffused to the extent that it is not readily discernible and cannot be confined to a discrete conveyance. This term is intended to be equivalent to the term "nonpoint source" as used in federal statutes and regulations.

DISCHARGE: Any addition of a contaminant, pollutant, or pollutants to the MS4, waters of the United States, or a watercourse, including a "discharge of pollutant" as defined in 40 CFR § 122.2.

DISCHARGER: A person who permits or causes a discharge into the MS4 or a watercourse.

ENFORCEMENT AGENCY: The City department or agency designated to enforce this Chapter, to include its director, employees, and designees.

ENFORCEMENT OFFICIAL: The City Environmental Coordinator, City Code Enforcement Officer, or any other City employee designated to serve as an Enforcement Official by the City Council to enforce the provisions of this Chapter.



FACILITY, OPERATION OR ACTIVITY: Any source of a discharge, including land or appurtenances thereto, that is subject to regulation under an NPDES permit. The foregoing includes an action performed by or associated with a person or organization, such as a business organization, in the production of goods or delivery of services.

GENERATOR: Any person, by site location, whose act, or process produces "solid waste" as defined in NRS 444.490, "hazardous material" as defined in NRS 459.7024, extremely hazardous material" as defined in NRS 459.7022, or "hazardous waste" as defined in NRS 459.432.

HAZARDOUS MATERIALS: Any material, substance or waste that is or has the characteristic of being hazardous, toxic, ignitable, reactive or corrosive, including, without limitations, petroleum, PCBs, asbestos, materials known to cause cancer or reproductive problems and those materials, substances and/or waste, including infectious waste, medical waste, and potentially infectious waste, which are or later become regulated by any local governmental authority, the state of Nevada, or the United States government, including, but not limited to, substances defined as "hazardous substances", "hazardous materials", "toxic substances", or "hazardous wastes" in the comprehensive environmental response, compensation and liability act of 1980, as amended, 43 USC section 9601 et seq.; the hazardous materials transportation act, 40 USC section 1801 et seq.; the resource conservation and recovery act, 43 USC section 6901 et seq.; all corresponding and related state of Nevada and local statutes, ordinances and regulations, including, without limitation, any dealing with underground storage tanks; and in any other environmental law, regulation or ordinance now existing or hereinafter enacted.

ILLEGAL CONNECTIONS: ~~An illegal connection defined as e~~ Either of the following:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm water conveyance system including, but not limited to, any conveyances which allow non stormwater discharge including, but not limited to, sewage and process wastewater to enter the storm water conveyance system and any connections to the storm water conveyance system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- B. Any drain or conveyance connected from a commercial or industrial land use to the storm water conveyance system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLEGAL DISCHARGE: Any direct or indirect non stormwater discharge to the ~~storm water conveyance system or storm water~~ MS4, a watercourse, or waters of the United States, except as exempted in section 9-6-6(A) of this chapter.

INDUSTRIAL ACTIVITY: ~~Activities~~ An activity subject to an NPDES industrial permits as ~~defined set forth~~ in 40 CFR section 122.26(b)(14).

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): A collection of structures (retention basins, ditches, underground pipes, etc.) owned and operated by the City and not connected to the sanitary sewer system that is designed to gather stormwater and discharge it, without treatment, into local streams and rivers.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT:** A permit allowing the City to legally discharge stormwater into local streams and rivers through the municipal separate storm sewer system.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT:** A permit issued by EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area wide basis.

**NON-STORMWATER DISCHARGE:** Any discharge ~~to storm water conveyance system and/or storm water~~ that is not composed entirely of storm water.

**PERSON:** Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or the owner's agent.

**PERSONAL SERVICE:** Hand delivery by and to an adult.

**POLLUTANT, POLLUTION, OR POLLUTE:** Anything which causes or contributes to pollution, either directly or indirectly. Pollutants may include, but are not limited to: sediment, petroleum products, paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, and accumulations, so that the same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; waste and residues that result from constructing a building or structure; site development of any kind; and noxious or offensive matter of any kind.

**PREMISES:** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

**RESPONDENT:** A person to whom a Notice of Violation, Stop Work Order, citation, or notice of civil infraction has been issued pursuant to this Chapter or a person who is formally accused by the City of violating this Chapter. The term "respondent" shall include any person defending a Notice of Violation, Stop Work Order, citation, notice of civil infraction, or complaint issued on the basis of a violation of this Chapter or who is otherwise subject to any punitive measure pursuant to this Chapter.

**STOP WORK ORDER:** An order issued by the Enforcement Official which requires that all sources and/or causes of a non-stormwater discharge or polluted stormwater, to include activities not permitted under an approved Stormwater Pollution Prevention Plan on a site, be stopped.

**STORMWATER:** Any surface flow runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

**STORMWATER CONSTRUCTION GENERAL PERMIT:** A permit issued by the Nevada Division of Environmental Protection for stormwater discharges associated with construction activity.



STORMWATER CONVEYANCE SYSTEM: Publicly owned facilities by which storm water is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human made drainage channels, reservoirs, and any other drainage structures.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP): A document, approved by federal, state, or local agencies in accordance with federal, state, or local law, which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable and posted on-site.

WASTEWATER: Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

WATERCOURSE: Any drainage or structure through which water may pass or drain and any body of water, including, but not limited to, lakes, ponds, rivers, streams, and bodies of water which have been delineated by federal, state, or local agencies in accordance with federal, state, or local laws. (Ord. 670, 3-13-2007)

In the event a term is used in this Chapter is not defined in this Chapter, but is defined in another Chapter in this Title 9, the definition contained in the other Chapter shall apply.

#### 9-6-3: APPLICABILITY:

This ~~Chapter shall apply to~~ regulates all water generated on any developed and undeveloped lands that enters the MS4, a watercourse, or waters of the United States, unless ~~explicitly properly~~ exempted by an authorized enforcement agency, ~~entering the storm water conveyance system or storm water. (Ord. 670, 3-13-2007)~~ The provisions of this Chapter 6, to include enforcement provisions, shall be in addition to and not in lieu of the provisions of Chapters 7 and 8 of this Title 9.

#### 9-6-4: RESPONSIBILITY FOR ADMINISTRATION:

The ~~City of Elko or its designee~~ shall administer, implement, and enforce the provisions of this ~~Chapter~~ to include delegating enforcement authority in a manner consistent herewith. ~~Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency. (Ord. 670, 3-13-2007)~~

#### 9-6-5: ULTIMATE RESPONSIBILITY:

The standards set forth herein and promulgated pursuant to this ~~Chapter~~ are minimum standards; therefore compliance with this ~~Chapter~~ does not ~~intend nor imply that compliance by any person will~~ ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants. The prevention of contamination, pollution, or unauthorized discharges of pollutants is the responsibility of each person subject to the applicable provisions of Title 9 of the City Code, federal and state law, and the holder of an NPDES permit or other permit pertaining to discharges. The acts and omissions of employees and agents in the course and scope of their employment or official duties shall be

deemed the acts and omissions of their employers and principals, except as otherwise provided by law. (Ord. 670, 3-13-2007)

#### 9-6-6: DISCHARGE PROHIBITIONS:

- A. Prohibition ~~Of~~ Against Illegal Discharges: No person shall discharge or cause to be discharged into the ~~municipal storm water conveyance system or watercourses~~ MS4, a watercourse, or waters of the United States any materials, including, but not limited to, pollutants and hazardous material or waters containing any pollutants, as described herein, that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the ~~storm water conveyance system~~ MS4, a watercourse, or waters of the United States is prohibited except ~~as follows~~ that the following discharges are exempt from discharge prohibitions established by this Chapter:

- ~~The following discharges are exempt from discharge prohibitions established by this chapter: w~~Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, foundation or footing drains (not including active ground water dewatering systems), crawl space pumps, air conditioning condensation, natural springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated ~~B typically less than 1 part per million chlorine~~ and in compliance with all federal and state requirements), or firefighting activities, ~~and any other source not containing pollutants or hazardous materials.~~
- Discharges specified in writing by the ~~authorized~~ enforcement agency as being necessary to protect public health and safety.
- Dye testing so long as ~~is an allowable discharge, but requires a verbal~~ notification is provided to the ~~authorized~~ enforcement agency prior to the time of the test.
- ~~The prohibition shall not apply to a~~Any non stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under authority of the federal or state environmental protection agency with jurisdiction, provided ~~that~~ the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided ~~that~~ written approval has been granted for any discharge to the ~~storm water conveyance system~~ MS4.

- B. Prohibition ~~Of~~ Against Illegal Connections:

- The construction, use, maintenance or continued existence of illegal connections to the ~~storm water conveyance system~~ MS4 is prohibited.
- ~~This~~ The foregoing prohibition expressly includes, without limitation, illegal connections made in the past, regardless of whether the connection was permissible under the City Code, law, or practices applicable or prevailing at the time of connection.



3. A person is considered to be in violation of this ~~e~~Chapter if the person connects a line conveying sewage to the MS4, or allows such a connection to continue. (~~Ord. 670, 3-13-2007~~)

#### 9-6-7: SUSPENSION OF MS4 ACCESS:

- A. Suspension Due ~~To~~ Illegal Discharges ~~in~~ Emergency Situations: The ~~e~~City of Elko may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or ~~threatened~~ impending discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4, a watercourse, or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the ~~authorized~~ enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.
- B. Suspension Due ~~To~~ The Detection ~~Of~~ Illegal Discharge: Any person discharging to the MS4 in violation of this ~~e~~Chapter may have their MS4 access terminated if such termination would abate or reduce an illegal discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may ~~petition the authorized enforcement agency for a reconsideration and hearing~~ appeal the decision following the process set forth in Section 9-6-14 below.
- C. A person commits an offense ~~if the person reinstates~~ by reinstating MS4 access to the premises ~~terminated after access was terminated~~ pursuant to this section, without the prior approval of the ~~authorized~~ enforcement agency. Violations are subject to enforcement pursuant to Section 9-6-13 below. (~~Ord. 670, 3-13-2007~~)

#### 9-6-8: COMMERCIAL OR INDUSTRIAL ACTIVITY, INCLUDING ~~OR~~ CONSTRUCTION ACTIVITY:

Any person who discharges non-stormwater into the MS4, a watercourse, or waters of the United States shall comply with the applicable provisions of this Chapter. Any person who is subject to an ~~industrial or construction activity~~ NPDES stormwater discharge permit issued by any local, state, or federal entity shall comply with all provisions of such permit. Proof of compliance with ~~said the~~ permit may be required in a form acceptable to the ~~e~~City prior to allowing ~~of discharges~~ a discharge of any kind into the MS4. ~~Land disturbance activities on a land parcel of six thousand (6,000) square feet to one acre not subject to NPDES construction permits are also included in this requirement. (~~Ord. 670, 3-13-2007~~)~~

#### 9-6-9: MONITORING OF DISCHARGES:

- A. Applicability: This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.
- B. Access ~~To~~ Facilities:
  1. ~~The city of Elko or its designee shall be permitted~~ The owner or operator of any facility shall permit the City to enter and inspect facilities subject to regulation under this ~~e~~Chapter as often as may be necessary to determine compliance with this ~~e~~Chapter to include

disengaging security devices and notifying onsite personnel, such as security guards. ~~If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.~~

2. ~~A Facility~~ owner or operators shall ~~allow~~ provide the ~~City of Elko or its designee~~ ready reasonable access to all parts of the premises for the purposes of inspection, sampling, examination and copying ~~of records that must be kept under the conditions of maintained pursuant to a~~ an NPDES permit to discharge stormwater, and the performance of any additional duties pertaining to discharges as defined by local, state, and federal law.
3. ~~The City of Elko or its designee shall have the right~~ is authorized to ~~set up~~ install on any permitted facility such devices as are necessary in the opinion of the ~~authorized enforcement agency~~ City to conduct monitoring and/or sampling of the facility's stormwater discharge.
4. ~~The City of Elko or its designee has the right~~ is authorized to require the discharger to install monitoring equipment as necessary to measure stormwater flow and quality. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
5. Any ~~temporary or permanent obstruction~~ impediment to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or ~~oral~~ verbal request of the ~~City of Elko~~ and shall not be replaced until authorized by the City. The ~~costs of clearing such~~ to remove such impediment to safe and easy access shall be borne by the owner or operator.
6. ~~An Unreasonable delays in allowing~~ providing the ~~City of Elko or its designee~~ access to a permitted facility is to investigate a potential violation of a stormwater discharge permit shall be a violation and of this ~~Chapter~~. ~~A person who is the~~ owner or operator of a facility with an required to maintain an NPDES permit to discharge stormwater associated with industrial activity ~~commits an offense if the person denies the authorized enforcement agency~~ violates this Chapter by failing or refusing to provide the City reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ~~Chapter~~.
7. If the ~~City of Elko or its designee has been~~ is refused access to any part of ~~the premises a facility from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that~~ and if the City determines it must there is a need to inspect and/or sample a discharge as part of a routine inspection and sampling program designed to verify compliance with this ~~Chapter~~ or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the ~~authorized enforcement agency~~ City may ~~seek issuance of a~~ apply for an administrative search warrant from any court of competent jurisdiction. (~~Ord. 670, 3-13-2007~~)



**9-6-10: REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES OR PROPER WASTE MANAGEMENT:**

All generators shall manage the discharge of waste in accordance with all federal, state, and local laws. The city of Elko requires the identification Generators shall also identify all waste to ensure compliance with applicable laws and shall use of best management practices (BMPs) for any activity, operation, or facility which may result in a discharge, or cause or contribute to pollution or contamination of storm water, the storm water conveyance system, or waters of the United States the MS4 or a watercourse, except as otherwise provided under federal, state, and local waste disposal laws. The city of Elko requires as a minimum the Operators shall use of its BMP manual to identify and utilize appropriate BMPs for all activities regulated by this Chapter. A person who holds a valid permit authorizing the discharge of stormwater associated with an industrial activity or construction activity shall comply with the terms and conditions thereof. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm water conveyance system or water courses through the use of these structural or nonstructural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illegal discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs for all activities regulated by this Chapter shall be part of included in a sStorm wWater pPollution pPrevention pPlan (SWPPP) as to the extent necessary for compliance to comply with the requirements of the an NPDES permit.

Whenever In the event the eCity of Elko finds determines that a person has not properly implemented the storm water pollution prevention plan a SWPPP or that the storm water pollution prevention plan SWPPP requires modification to prevent the discharge or possible discharge of pollutants into the storm water conveyance system or storm water MS4 or a watercourse, the eCity of Elko may, at in its sole discretion, allow a time frame instruct the person to correct the specified deficiencies not to exceed within ten (10) calendar days for the person to correct the identified deficiencies. (Ord. 670, 3-13-2007)

**9-6-11: WATERCOURSE PROTECTION:**

Every Any person owning who owns, occupies, or possesses property (to include a lessee) through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles materials or object that may that would pollute, contaminate, or significantly retard restrict the flow of water through the watercourse. In addition, the owner, occupant, or lessee person in possession shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse. (Ord. 670, 3-13-2007)

**9-6-12: NOTIFICATION OF SPILLS:**

Notwithstanding other requirements of law, as soon as if any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of

pertaining to any known or suspected release of materials which ~~are resulting cause~~ or may result in illegal discharges, ~~or pollutants discharging into storm water, the storm water conveyance system, or water of the United States, said that~~ person shall promptly take all reasonably necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of ~~such a~~ release of hazardous materials, ~~said the~~ person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous material, ~~said the~~ person shall notify the ~~authorized appropriate eCity enforcement agency department or official either~~ in person, ~~or by~~ telephone, ~~or by facsimile or~~ by electronic mail no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the ~~eCity of Elko~~ within three (3) business days of the in-person or telephoneic notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. The foregoing notification requirements are in addition to and not in lieu of any applicable notification requirements under federal and state law. The failure to provide notice as required in this section shall constitute a violation of this Chapter. (Ord. 670, 3-13-2007)

#### 9-6-13: ENFORCEMENT:

~~A. Notice Of Violation: Whenever the city of Elko finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:~~

- ~~1. The performance of monitoring, analyses, and reporting;~~
- ~~2. The elimination of illegal connections or discharges;~~
- ~~3. That violating discharges, practices, or operations shall cease and desist;~~
- ~~4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and~~
- ~~5. The implementation of source control or treatment BMPs.~~

~~B. Deadline: If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or contractor and the expense thereof shall be charged to the violator. (Ord. 670, 3-13-2007)~~

A. Notice of Violation: In the event the City determines that a person has violated a prohibition or failed to meet a requirement of this Chapter 6, the City may compel compliance by serving a written Notice of Violation or Stop Work Order upon the discharger or the discharger's agent or representative by personal service. A Notice of Violation issued under this section may require, without limitation:



1. The performance of monitoring, analyses, and reporting;
  2. The elimination of illegal connections or discharges;
  3. That discharges, practices, or operations causing nonpoint source pollution immediately cease and desist;
  4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
  5. The payment of a fine established by this Chapter or by resolution of the City Council to cover administrative and remediation costs; and/or
  6. Implementation of source control or treatment BMPs.
- B. Stop Work Order: In the event an unlawful or unpermitted discharge threatens the MS4, waters of the United States or a watercourse, or endangers the health or safety of any person, the City shall issue a Stop Work Order to the discharger, which shall be served by personal service upon the discharger or the discharger's agent or representative. If the discharger fails to obey the Stop Work Order immediately, the City shall take such action as may be necessary to insure compliance with this Chapter 6, including, but not limited to, submitting a request for the arrest of the discharger by a peace officer and/or an order for the immediate cessation of the discharger's ability to discharge, to include the immediate stoppage of all work at a construction site or other development. A Stop Work Order issued pursuant to this section shall remain in effect until the City determines that the respondent has completed all abatement, remediation, restoration activities and/or other requirements therein specified.
- C. Deadline: If abatement of a violation and/or restoration of affected property is required, the Notice of Violation shall set forth a deadline by which such remediation or restoration must be completed. Should the respondent fail to perform the remediation or restoration therein specified by the deadline, the work may be done by the City or a designated governmental agency or contractor and the expense thereof shall be charged to the respondent.
- D. Citations: The Environmental Enforcement Official or her or his designee shall have the authority to prepare, sign and serve written citations on persons accused of violating a provision of this Chapter where there is a criminal sanction. All citations so issued and served shall comply with the requirements of NRS 171.1773 and NRS 171.17751(5).
- E. Civil liability instead of criminal sanction: Any person who violates this Chapter may be subject to civil liability to the City in an amount not to exceed \$500 instead of a criminal sanction.
- F. Civil liability; notice of civil infraction: The Environmental Enforcement Official or her or his designee may issue a notice of civil infraction to any person who violates this Chapter. The notice of violation must be issued on a form containing the following information:
1. The location where the violation occurred;
  2. The date and time of the violation;

3. The signature of the Environmental Enforcement Official or other authorized person who issues the notice of civil infraction;
4. The section of this code that allegedly is being violated;
5. Information about the manner and time within which the notice of civil infraction must be answered;
6. The amount of the civil fine; and
7. Any other information relevant to the violation and applicable provisions of this Chapter.

G. Civil liability; duties of respondent:

1. A person who responds to a notice of civil infraction must either:
  - a. Admit the commission of the infraction and pay the appropriate civil fine; or
  - b. Deny liability for the infraction.
2. A person may admit commission of the infraction by paying to the municipal court the civil fine shown on the notice of civil infraction.
3. A person who denies liability for the infraction must appear in person before the municipal court.

H. Commencement of civil action; procedure: Judicial enforcement of a notice of civil infraction must be by way of a civil suit in the municipal court if a person denies liability. A civil action may be commenced by the filing of a complaint in the name of the City and the issuance of a summons with respect thereto, and service of such complaint and summons on the defendant must be made by certified mail, return receipt requested, addressed to the defendant at his/her last known address or in any other matter which is authorized by law. The proceedings in municipal court for actions commenced pursuant to this Chapter shall be governed by Rules 1 and 3 through 87 of the Justice Court Rules of Civil Procedure.

I. Civil Fines: A respondent who commits a civil infraction under this Chapter shall subject to a civil fine in the amount of \$500.00 per infraction.

**9-6-14: APPEAL OF NOTICE OF VIOLATION AND/OR STOP WORK ORDER:**

~~Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within thirty (30) days from the date of the notice of violation. Hearing on appeal before the Elko city council shall take place within forty five (45) days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final. (Ord. 670, 3-13-2007)~~



- A. A Notice of Violation or Stop Work Order issued pursuant to this Chapter 6 shall include a written notice setting forth the respondent's appeal rights pursuant to this Section 9-6-14.
- B. A respondent served with a Notice of Violation or Stop Work Order may, within fourteen (14) calendar days of service thereof, appeal the determination of the Enforcement Official to the City Manager by filing a "Notice of Appeal to the City Manager" with the City Clerk containing a statement of the basis for the appeal. The City Manager or the City Manager's designee shall schedule and conduct a hearing on the Notice of Violation or Stop Work Order within fourteen (14) calendar days thereafter, upon no less than seven (7) calendar days' advance notice to the respondent, unless otherwise agreed by the respondent and the City. At the hearing before the City Manager or the City Manager's designee, the respondent and the City shall each be given an opportunity to present arguments and evidence, to include witness testimony. The rules of evidence shall not apply. The City Manager or the City Manager's designee may terminate the hearing at a time determined in advance by the City Manager or the City Manager's designee, provided a reasonable time shall be given to permit the respondent and the City to present their respective arguments and evidence. The City Manager or City Manager's designee may terminate a hearing at any time upon a determination that the additional evidence and argument to be proffered by the respondent and the City will be duplicative or not relevant to the issues to be resolved. The City Manager or the City Manager's designee shall issue and serve a written decision upon the respondent with five (5) business days of the hearing.
- C. A respondent may, within fourteen (14) calendar days of service thereof, appeal the decision of the City Manager or the City Manager's designee to the City Council by filing a "Notice of Appeal to the City Council" with the City Clerk containing a statement of the basis for the appeal. The City Council shall, within forty-five (45) calendar days thereafter, conduct a hearing on the decision of the City Manager or City Manager's designee. At the hearing before the City Council, the respondent and the City shall each be given an opportunity to present arguments and evidence, to include witness testimony. The rules of evidence shall not apply. The City Council may terminate the proceeding at a time determined in advance by the City Manager or the City Manager's designee, provided a reasonable time shall be given to permit the respondent and the City to present their respective arguments and evidence. The City Council may terminate a hearing at any time upon a determination that the additional evidence and argument to be proffered by the respondent and the City will be duplicative or not relevant to the issues to be resolved. The City Council shall render a decision at the hearing, to include a continuation thereof in the event the hearing is tabled.
- D. Service upon the respondent for purposes of this Section 9-6-14 shall mean service by certified mail, return receipt requested.
- E. A respondent to whom a Notice of Violation or Stop Work Order has been issued must comply with the requirements stated therein pending an appeal or appeals pursuant to this Section 9-6-14.
- F. The failure of a respondent to appeal a decision within the times required in this Section 9-6-14 shall result in the waiver of those appeal rights.

G. The decision of the City Council at an appeal hearing pursuant to this Section 9-6-14 shall be final for purposes of judicial review. Any action for judicial review shall be commenced by filing a petition with the District Court for the Fourth Judicial District, in and for the County of Elko, State of Nevada, no more than thirty (30) calendar days from the date of the decision of the City Council at an appeal hearing pursuant to this Section 9-6-14.

**9-6-15: INJUNCTIVE RELIEF:**

~~It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter.~~ If a person has violated or continues to violate the provisions of this ~~e~~Chapter, the ~~authorized enforcement agency~~ City may petition for a preliminary or permanent injunction restraining the person from activities which could create further violations or compelling the person to perform abatement or remediation of the violation. ~~(Ord. 670, 3-13-2007)~~

**9-6-16: VIOLATIONS DEEMED A PUBLIC NUISANCE:**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ~~e~~Chapter is hereby determined to be a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be abated pursuant to the provisions of Nevada Revised Statutes ~~e~~Chapter 268 or restored at the violator's expense, and/or civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. The provisions of this Section 9-6-16 and the City Nuisance Code are in addition to and not in lieu of the other enforcement provisions set forth in this Chapter. ~~(Ord. 670, 3-13-2007)~~

**9-6-17: CRIMINAL PROSECUTION PENALTIES:**

Any person ~~that~~ who has violated or continues to violate the requirements of this eChapter, to include any requirement set forth in a Notice of Violation or Stop Work Order issued under this Chapter, shall be ~~liable to criminal prosecution and shall be~~ subject to a criminal penalty of one thousand dollars (\$1,000.00) ~~per violation per day.~~ Each day a person violates this Chapter or remains in violation of this Chapter shall be a separate violation. In addition, any person ~~that~~ who has violated or continues to violate this ~~e~~Chapter may be subject to criminal prosecution under federal or state laws.

The ~~authorized enforcement agency~~ City may recover all attorney fees, court costs and other expenses ~~associated with~~ incurred in the enforcement of this ~~e~~Chapter, including sampling and monitoring expenses. ~~(Ord. 670, 3-13-2007)~~

**9-6-18: REMEDIES NOT EXCLUSIVE:**

The remedies listed in this ~~e~~Chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies. ~~(Ord. 670, 3-13-2007)~~

**9-6-19: STORMWATER MANAGEMENT UTILITY FEES:**

To offset the cost of operating the City MS4, there is hereby established a Stormwater Management Utility Fee. The Stormwater Management Utility Fee shall be charged to each person who is provided water service by the City, shall be in addition to all other charges assessed under Title 9, Chapter 1



(Elko Water Code), and may be billed monthly. The ~~s~~Stormwater ~~m~~Management ~~u~~Utility ~~f~~Fee for the billing period established by the city shall be calculated on the basis of the sewer fixture unit (SFU) count of the water user's premises, as follows:

**~~A. Stormwater Management Utility Fee:~~**

- ~~1. A fee levied to cover the operation, maintenance and replacement of the city's stormwater conveyance system and to provide for the monitoring of stormwater quality.~~
- ~~2. Stormwater management utility fees shall be based upon the following sewer fixture units and shall be set by resolution:~~

Residential:		
50 SFU (minimum)		\$1.00
Commercial <u>or Industrial</u> :		
1 to 50 SFU (minimum)		1.00
51 to 500 SFU		0.02 per SFU
501 to 3,000 SFU		0.01 per SFU
3,001 or more		0.005 per SFU

**~~(Ord. 716, 9-28-2010)~~**

**Section 2: Title 9, Chapter 7 of the Elko City Code is hereby amended to read as follows:**

**9-7-1: PURPOSE:**

The purpose of this ~~c~~Chapter is to provide for the health, safety and general welfare of the ~~citizens residents of the City~~ through regulation of construction activities to manage and control pollution from construction sites affecting the MS4, waters of the United States, and watercourses. This Chapter establishes methods for controlling the introduction of pollutants into the MS4 to comply with the National Pollutant Discharge Elimination System (NPDES) permit process and to: . ~~This chapter establishes methods for controlling pollution from construction sites in accordance with the national pollutant discharge elimination system (NPDES) permit process in order to:~~

- A. Provide for protection of stormwater, ground water, water bodies, watercourses, and wetlands pursuant to and consistent with the ~~c~~Clean ~~w~~Water ~~a~~Act, and the NPDES permit ~~granted issued~~ to the ~~c~~City ~~of Elko~~,
- B. Manage and control the amount of pollutants in stormwater discharges ~~and into~~ the ~~municipal storm sewer systems~~ MS4, soil erosion, sediment discharge, and sediment on public roadways, and
- C. Ensure adequate drainage, stormwater management and soil conservation measures are utilized at ~~the site of~~ construction activity sites. **~~(Ord. 671, 4-10-2007)~~**

## 9-7-2: DEFINITIONS:

~~For the purposes of this chapter, the following shall mean:~~ As used in this Chapter, unless the context otherwise requires, the words and terms defined in this section shall have the following meanings ascribed to them:

~~**AUTHORIZED ENFORCEMENT AGENCY:** The director of the municipal agency designated to enforce this chapter or the director employees or the director designees.~~

**BEST MANAGEMENT PRACTICES (BMPs):** Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to the MS4, a watercourse, or waters of the United States, to include stormwater, receiving water, or stormwater conveyance systems; ~~and also~~ BMPs include treatment practices, operating procedures, and other practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. BMPs may be structural or nonstructural.

**CITY:** The City of Elko, Nevada, to include its departments, agencies, officials and employees.

~~**CLEAN WATER ACT:** The federal water pollution control act (33 USC 1251 et seq.), and any subsequent amendments thereto.~~ The Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et seq.

**CLEARING:** Any activity which removes ~~the~~ vegetative cover.

~~**CONSTRUCTION ACTIVITY:** Activities~~ An activity subject to an NPDES construction stormwater general permits issued by the ~~s~~State of Nevada. The term "construction activity" includes NPDES construction activities on a land disturbance of one (1) acre or more. The term "construction activity" also includes a land disturbance of less than one (1) acre if part of a larger common plan of development or sale that disturbs, or is proposed to disturb, one (1) acre or more. ~~Construction activities on from six thousand (6,000) square feet to one acre not subject to NPDES construction permits are also included in this definition.~~ Such activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition.

**CONSTRUCTION SITE:** Any ~~land where~~ parcel of land on which "construction activity", ~~as defined in this section,~~ is performed.

**DISCHARGE:** Any addition of a contaminant, pollutant or pollutants to the MS4, waters of the United States or a watercourse, including a "discharge of pollutant" as defined in 40 CFR § 122.2.

**ENFORCEMENT OFFICIAL:** The City of Elko Environmental Coordinator, City Code Enforcement Officer, or any other City of Elko employee designated to serve as an Enforcement Official by the City Council to enforce the provisions of this Chapter.

**EROSION CONTROL:** Any measure ~~that prevents~~ designed to prevent erosion.



**GRADING:** ~~Excavation or fill of material, including the resulting conditions thereof.~~ The work of ensuring a level base, or one with a specified slope, for a construction work such as a foundation, the base course for a road or a railway, or landscape and garden improvements, or surface drainage. Grading may involve excavation, placement of fill material, or both.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** A collection of structures (retention basins, ditches, underground pipes, etc.) owned and operated by the City and not connected to the sanitary sewer system that is designed to gather stormwater and discharge it, without treatment, into local streams and rivers.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT:** A permit allowing the City to legally discharge stormwater into local streams and rivers through the municipal separate storm sewer system.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT:** A permit issued by EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general areawide basis.

**NON-STORMWATER DISCHARGE:** Any discharge to storm water conveyance system and/or storm water that is not composed entirely of storm water.

**PERIMETER CONTROL:** A barrier that prevents sediment from leaving a site either by filtering sediment-laden runoff, or diverting it to a sediment trap or basin.

**PERSON:** Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or the owner's agent.

**PHASING:** Clearing a parcel of land in distinct phases, with stabilization of each phase before clearing the next phase.

**POLLUTANT:** Anything which causes or contributes to pollution either directly or indirectly. Pollutants may include, but are not limited to: sediment, petroleum products, paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, and accumulations, so that the same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; site development of any kind; and noxious or offensive matter of any kind.

**PREMISES:** Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

**RESPONDENT:** A person to whom a notice of violation, stop work order, citation or notice of civil infraction has been issued pursuant to this Chapter or a person who is formally accused by the City of violating this Chapter. The term "respondent" shall include any person defending a notice of violation, stop work order, citation, notice of civil infraction or complaint issued on the basis of

a violation of this Chapter or who is otherwise subject to any punitive measure pursuant to this Chapter.

SEDIMENT CONTROL: Any measure that prevents sediment from leaving the site.

STABILIZATION: Any practice that prevents exposed soil from eroding.

START OF CONSTRUCTION: The first land disturbing activity associated with development, including land preparation, such as clearing, grading and filling, installation of streets and walkways, excavation for basements, footings, foundations, and erection of temporary forms.

STOP WORK ORDER: An order issued by the Enforcement Official which requires that all sources and/or causes of a non-stormwater discharge or polluted stormwater, to include all activities not permitted required under an approved Stormwater Pollution Prevention Plan on a site, be stopped.

STORMWATER: Any surface flow runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORMWATER CONSTRUCTION GENERAL PERMIT: A permit issued by the Nevada Division of Environmental Protection for stormwater discharges associated with construction activity.

STORMWATER CONVEYANCE SYSTEM: Publicly owned facilities by which storm water is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human made drainage channels, reservoirs, and any other drainage structures.

STORM WATER POLLUTION PREVENTION PLAN (SWPPP): A document, approved by federal, state, or local agencies in accordance with federal, state, or local law, which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable and posted on-site.

WATERCOURSE: Any drainage or structure through which water may pass or drain to any body of water, including, but not limited to, lakes, ponds, rivers, streams, and bodies of water which have been delineated by ~~the city of Elko~~ federal, state, or local agencies in accordance with federal, state, or local laws. ~~(Ord. 671, 4-10-2007)~~

### 9-7-3: APPLICABILITY:

This Chapter regulates all water discharged from any construction site subject to an NPDES Construction Stormwater General Permit issued by the State of Nevada. Included in these regulations are protections against ~~Off-site impacts of erosion and sedimentation from a construction sites, including prohibitions against~~ are prohibited and ~~polluting substances such as construction materials and waste. This Chapter also contains or incorporates regulations requiring on-site containment shall be contained on the site where such substances cannot drain to prevent drainage or be transported transportation~~ by stormwater into the MS4, a watercourse, or the stormwater conveyance system



~~waters of the United States. Best management practices shall~~ The regulations further require that BMPs be implemented for at all construction sites. The performance standards set forth in the eCity's of Elko "Construction Site Best Management Practices Handbook" (the "BMP Manual") together with such addendum including addenda and updates, all of which are on deposit in the office of the city of Elko available for review and copying at the City offices, are hereby adopted by reference and incorporated herein and made a part hereof as if set forth in full for the purpose of establishing the appropriate BMPs and standards related thereto. (Ord. 671, 4-10-2007)

#### 9-7-4: RESPONSIBILITY FOR ADMINISTRATION:

~~The city of Elko or its designee shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency. (Ord. 671, 4-10-2007)~~

The City shall administer, implement, and enforce the provisions of this Chapter, to include delegating enforcement authority in a manner consistent herewith.

#### 9-7-5: ULTIMATE RESPONSIBILITY:

~~The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants. (Ord. 671, 4-10-2007)~~

The standards set forth herein and promulgated pursuant to this Chapter are minimum standards; therefore, compliance with this Chapter does not ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants. The prevention of contamination, pollution, or unauthorized discharges of pollutants is the responsibility of each person subject to the applicable provisions of Title 9 of the City Code and federal and state law, and the holder of an NPDES permit or other permit pertaining to discharges. The acts and omissions of employees and agents in the course and scope of their employment or official duties shall be deemed the acts and omissions of their employers and principals, except as otherwise provided by law.

#### 9-7-6: STORMWATER CONSTRUCTION GENERAL PERMIT; CONSTRUCTION SITE DISCHARGE REGULATIONS AND REQUIREMENTS:

- A. ~~Construction permit~~ A valid Stormwater Construction General Permit issued by the State submittal is required on for all projects that may require grading, site development, building, site drainage, or encroachment that will disturb an area of six thousand (6,000) square feet one (1) acre or more or construction activities disturbing less than one (1) acre if part of a larger common plan of development or sale that would disturb one (1) acre or more (including public works projects).
- B. Prior to issuance of any of the above referenced permits (grading, site development, building, site drainage, or encroachment), the following must be submitted to the Development Department for review:
  1. Construction permit submittal checklist;

2. Performance standards compliance checklist;
  3. Copy of a ~~an~~ Notice of Intent (NOI) submitted to the Nevada Division of Environmental Protection;
  4. ~~Copy of signed confirmation letter~~ Proof of acceptance of the NOI by the Nevada Division of Environmental Protection; and
  5. Copy of the project SWPPP.
- C. ~~The installation and maintenance of storm water controls are to be in accordance with standards as set forth in the BMP manual or manufacturer's specifications. (Ord. 671, 4-10-2007)~~ The City will issue a grading permit to an applicant only upon approval by the City of the items set forth in Section 9-7-6(B), to include a SWPPP that satisfies all applicable federal, state and City requirements.
- D. The installation and maintenance of storm water controls shall comply with the City-approved SWPPP.
- E. A person commits a violation of this Chapter by permitting, authorizing, directing or engaging in a construction activity without a valid Stormwater Construction General Permit issued by the State, unless otherwise exempt pursuant to the City Code or federal or state law.

**9-7-7: REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES:**

~~The city of Elko requires the identification and use of best management practices (BMPs) for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm water conveyance system, or waters of the United States. The city of Elko requires as a minimum the use of its~~ Any person who engages in or is responsible for a construction activity, to include grading on a construction site, shall identify and implement BMPs consistent with the standards set for the City ~~BMP manual to identify and utilize appropriate BMPs. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm water conveyance system or watercourses through the use of these structural or nonstructural BMPs. Further, The City may require any person engaged in or responsible for a property or premises, which is, or may be, the source of an illegal discharge, may be required~~ a construction activity to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants into the MS4, a watercourse, or waters of the United States. Compliance with all terms and conditions of a valid NPDES permit and/or Stormwater Construction General Permit authorizing the discharge of storm water associated with industrial construction activity, to the extent practicable, shall may, at the discretion of the City, be deemed equivalent to compliance with the provisions of this section. These BMPs shall be ~~part of a storm water pollution prevention plan included in a (SWPPP) as necessary if the BMPs are required for compliance with requirements of the an NPDES permit and/or a Stormwater Construction General Permit. (Ord. 671, 4-10-2007)~~

**9-7-8: INSPECTION:**



- A. ~~All construction sites which fall within this chapter shall be subject to the inspection provisions provided herein.~~ The City may inspect any location where a construction activity is occurring in accordance with the provisions of this Section 9-7-8.
- B. The owner or occupant of any property where a construction activity is occurring shall permit the City of Elko or its designee shall be permitted to enter and inspect any construction site the property to determine compliance with this Chapter and to take any enforcement action permitted under this Chapter.
- C. ~~Whenever the city of Elko or its designee finds~~ In the event the City determines that a person holding a Stormwater Construction General Permit has not properly implemented ~~the an approved sStorm wWater pPollution pPrevention pPlan or that the sStorm wWater pPollution pPrevention pPlan~~ requires modification to prevent the discharge or possible discharge of pollutants to the ~~storm water conveyance system or storm water~~ MS4, a watercourse, or waters of the United States, the ~~City of Elko or its designee~~ may, ~~at its sole discretion, allow a time frame grant the person a period~~ not to exceed ten (10) calendar days ~~for the person to correct the identified deficiencies. If an inspector the City determines the installed storm water existing erosion, perimeter, or sediment controls are insufficient or place placing the City of Elko at risk of violating its NPDES permit, the inspector City may order change to the storm water order the person to remove, place, or modify the controls. If the change to the storm water controls is not acceptable or is not immediately implemented, enforcement action may be taken. The failure of a person to comply with an order issued pursuant to the preceding sentence shall, without limitation, be a violation of this Chapter.~~
- D. ~~Emergency control measures~~ A Stop Work Order may be ~~ordered~~ issued to a person engaged in or responsible for a construction activity when pollutants are actually leaving the site if the City determines that there is an unlawful or unpermitted discharge at the construction site.
- E. A complaint of any violation of this Chapter that is submitted to the City shall be promptly investigated ~~by inspection. (Ord. 671, 4-10-2007)~~

#### 9-7-9: ENFORCEMENT:

- A. Notice ~~Of~~ Violation: ~~Whenever~~ In the event the ~~City of Elko or its designee finds~~ determines that a person has violated a prohibition or failed to meet a requirement of this ~~Chapter~~, ~~the authorized enforcement agency may order~~ the City may compel compliance by serving a written Notice of Violation to upon the responsible person discharger or the discharger's agent or representative by certified mail, return-receipt requested. A Notice of Violation issued under this section shall require that the violation(s) be corrected within no more than ten (10) calendar days. Such notice A Notice of Violation issued under this section may require, without limitation:
  1. ~~Violating discharges, practices, or operations~~ That the acts or omissions resulting in a discharge shall immediately cease and desist;
  2. The Abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and

3. ~~The P~~ayment of a fine established by the Chapter or by resolution of the City Council to cover administrative and remediation costs; and
  4. Implementation of source control or treatment BMPs.
- B. Stop Work Order: In the event an unlawful or unpermitted discharge from a construction activity threatens the MS4, waters of the United States or a watercourse, or endangers the health or safety of any person, the City shall issue a Stop Work Order to the discharger, which shall be served by personal service upon the discharger or the discharger's agent or representative. If the discharger fails to obey the Stop Work Order immediately, the City shall take such action as may be necessary to insure compliance with this Chapter, including, but not limited to, submitting a request for the arrest of the discharger by a peace officer and/or an order for the immediate cessation of the discharger's ability to discharge, to include the immediate stoppage of all work at a construction site. For purposes of this section, an unpermitted discharge shall include a discharge from a construction site that has not implemented the proper source control or treatment BMPs. A Stop Work Order issued pursuant to this section shall remain in effect until the City determines that the respondent has completed all abatement, remediation, restoration activities and/or other requirements therein specified.
- C. Deadline: If abatement of a violation and/or restoration of affected property is required, the ~~n~~Notice of Violation shall set forth a deadline within which such remediation or restoration must be completed. ~~Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or contractor and the expense thereof shall be charged to the violator. (Ord. 671, 4-10-2007)~~ Should the respondent fail to perform the remediation or restoration therein specified by the deadline, the work may be done by the City or a designated governmental agency or contractor and the expense thereof shall be charged to the respondent.
- D. Citations: The Environmental Enforcement Official or her or his designee shall have the authority to prepare, sign and serve written citations on persons accused of violating a provision of this Chapter where there is a criminal sanction. All citations so issued and served shall comply with the requirements of NRS 171.1773 and NRS 171.17751(5).
- E. Civil liability instead of criminal sanction: Any person who violates this Chapter may be subject to civil liability to the City in an amount not to exceed \$500 instead of a criminal sanction.
- F. Civil liability; notice of civil infraction: The Environmental Enforcement Official or her or his designee may issue a notice of civil infraction to any person who violates this Chapter. The notice of violation must be issued on a form containing the following information:
1. The location where the violation occurred;
  2. The date and time of the violation;



3. The signature of the Environmental Enforcement Official or other authorized person who issues the notice of civil infraction;
4. The section of this code that allegedly is being violated;
5. Information about the manner and time within which the notice of civil infraction must be answered;
6. The amount of the civil fine; and
7. Any other information relevant to the violation and applicable provisions of this Chapter.

G. Civil liability; duties of respondent:

1. A person who responds to a notice of civil infraction must either:
  - a. Admit the commission of the infraction and pay the appropriate civil fine; or
  - b. Deny liability for the infraction.
2. A person may admit commission of the infraction by paying to the municipal court the civil fine shown on the notice of civil infraction.
3. A person who denies liability for the infraction must appear in person before the municipal court.

H. Commencement of civil action; procedure: Judicial enforcement of a notice of civil infraction must be by way of a civil suit in the municipal court if a person denies liability. A civil action may be commenced by the filing of a complaint in the name of the City and the issuance of a summons with respect thereto, and service of such complaint and summons on the defendant must be made by certified mail, return receipt requested, addressed to the defendant at his/her last known address or in any other manner which is authorized by law. The proceedings in municipal court for actions commenced pursuant to this Chapter shall be governed by Rules 1 and 3 through 87 of the Justice Court Rules of Civil Procedure.

- I. Civil Fines: A respondent who commits a civil infraction under this Chapter shall be subject to a civil fine in the amount of \$500.00 per infraction.
- J. Lien: The City shall have a lien pursuant to NRS 108.222 on any property upon which work is performed by the City or its contractor in correcting a violation of this Chapter pursuant to this Section 9-7-9. The lien shall be calculated, perfected and enforced in accordance with NRS 108.221, et seq. (Mechanics' and Materialmen's Liens).
- K. Withholding of Approvals: Should the City perform work on the installation, maintenance, or removal of stormwater control measures pursuant to this Section 9-7-9, the respondent shall reimburse the City the full amount of that expense prior to issuance of any permit, final approval or certificate of occupancy associated with property upon which the work is performed, and the City shall withhold all permits, final approvals and/or certificates of

occupancy for the property or which have been requested by the respondent until the expense is fully reimbursed to the City.

**9-7-10: APPEAL OF NOTICE OF VIOLATION AND/OR STOP WORK ORDER:**

~~Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within thirty (30) days from the date of the notice of violation. Hearing on appeal before the Elko city council shall take place within forty five (45) days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final. (Ord. 671, 4-10-2007)~~

- A. A Notice of Violation or Stop Work Order issued pursuant to this Chapter 7 shall include a written notice setting forth the respondent's appeal rights pursuant to this Section 9-7-10.
- B. A respondent served with a Notice of Violation or Stop Work Order may, within fourteen (14) calendar days of service thereof, appeal the determination of the Enforcement Official to the City Manager by filing a "Notice of Appeal to the City Manager" with the City Clerk containing a statement of the basis for the appeal. The City Manager or the City Manager's designee shall schedule and conduct a hearing on the Notice of Violation or Stop Work Order within fourteen (14) calendar days thereafter, upon no less than seven (7) calendar days' advance notice to the respondent, unless otherwise agreed by the respondent and the City. At the hearing before the City Manager or the City Manager's designee, the respondent and the City shall each be given an opportunity to present arguments and evidence, to include witness testimony. The rules of evidence shall not apply. The City Manager or the City Manager's designee may terminate the hearing at a time determined in advance by the City Manager or the City Manager's designee, provided a reasonable time shall be given to permit the respondent and the City to present their respective arguments and evidence. The City Manager or City Manager's designee may terminate a hearing at any time upon a determination that the additional evidence and argument to be proffered by the respondent and the City will be duplicative or not relevant to the issues to be resolved. The City Manager or the City Manager's designee shall issue and serve a written decision upon the respondent with five (5) business days of the hearing.
- C. A respondent may, within fourteen (14) calendar days of service thereof, appeal the decision of the City Manager or the City Manager's designee to the City Council by filing a "Notice of Appeal to the City Council" with the City Clerk containing a statement of the basis for the appeal. The City Council shall, within forty-five (45) calendar days thereafter, conduct a hearing on the decision of the City Manager or City Manager's designee. At the hearing before the City Council, the respondent and the City shall each be given an opportunity to present arguments and evidence, to include witness testimony. The rules of evidence shall not apply. The City Council may terminate the proceeding at a time determined in advance by the City Manager or the City Manager's designee, provided a reasonable time shall be given to permit the respondent and the City to present their respective arguments and evidence. The City Council may terminate a hearing at any time upon a determination that the additional evidence and argument to be proffered by the respondent and the City will be duplicative or not relevant to the issues to be resolved. The City Council shall render a decision at the hearing, to include a continuation thereof in the event the hearing is tabled.



- D. Service upon the respondent for purposes of this Section 9-7-10 shall mean service by certified mail, return receipt requested.
- E. A respondent to whom a Notice of Violation or Stop Work Order has been issued must comply with the requirements stated therein pending an appeal or appeals pursuant to this Section 9-7-10.
- F. The failure of a respondent to appeal a decision within the times required in this Section 9-7-10 shall result in the waiver of those appeal rights.
- G. The decision of the City Council at an appeal hearing pursuant to this Section 9-7-10 shall be final for purposes of judicial review. Any action for judicial review shall be commenced by filing a petition with the District Court for the Fourth Judicial District, in and for the County of Elko, State of Nevada, no more than thirty (30) calendar days from the date of the decision of the City Council at an appeal hearing pursuant to this Section 9-7-10.

#### **9-7-11: INJUNCTIVE RELIEF:**

~~It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter.~~ If a person has violated or continues to violate the provisions of this ~~e~~Chapter, the ~~authorized enforcement agency~~ City may petition for a preliminary or permanent injunction restraining the person from activities which could create further violations or compelling the person to perform abatement or remediation of the violation. ~~{Ord. 671, 4-10-2007}~~

#### **9-7-12: VIOLATIONS DEEMED A PUBLIC NUISANCE:**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ~~e~~Chapter is hereby determined to be a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be abated pursuant to the provision of Nevada Revised Statutes ~~e~~Chapter 268 or restored at the violator's expense, and/or civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. The provisions of this Section 9-7-12 and the City Nuisance Code are in addition to and not in lieu of the other enforcement provisions set forth in this Chapter. ~~{Ord. 671, 4-10-2007}~~

#### **9-7-13: CRIMINAL PROSECUTION PENALTIES:**

Any person ~~that~~ who has violated or continues to violate the requirements of this ~~e~~Chapter, to include any requirement set forth in a Notice of Violation or Stop Work Order issued under this Chapter shall be ~~liable to criminal prosecution to the fullest extent of the law, and shall be~~ subject to a criminal penalty of one thousand dollars (\$1,000.00) ~~per violation per day.~~ Each day a person violates this Chapter or remains in violation of this Chapter shall be a separate violation. In addition, any person ~~that~~ who has violated or continues to violate this ~~e~~Chapter may be subject to criminal prosecution under federal or state laws.

The ~~authorized enforcement agency~~ City may recover all attorney fees, court costs and other expenses ~~associated with~~ incurred in the enforcement of this chapter, including sampling and monitoring expenses. ~~{Ord. 671, 4-10-2007}~~

#### 9-7-14: REMEDIES NOT EXCLUSIVE:

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies. ~~(Ord. 671, 4-10-2007)~~

Section 3: Title 9, Chapter 8 of the Elko City Code is hereby amended to read as follows:

#### 9-8-1: PURPOSE:

~~The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in watersheds within this jurisdiction, and to protect nearby waterways by reducing the quantity of pollutants that stormwater picks up and carries into storm systems during storm events. This chapter seeks to meet that purpose through the following objectives:~~

- ~~A. Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion, and maintain the integrity of stream channels.~~
- ~~B. Minimize increases in nonpoint source pollution caused by stormwater runoff from development that may cause or contribute to downstream violations of water quality standards of any pollutant of concern.~~
- ~~C. Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the predevelopment hydrologic regime to the maximum extent practicable.~~
- ~~D. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.~~
- ~~E. Control and minimize the above impacts through implementation of approved postconstruction stormwater quality management plans that place a strong emphasis on implementing low impact development (LID) principles and techniques that include, but are not limited to, disturbing only the smallest area necessary, minimizing soil compaction and imperviousness in drainage and recharge areas, preserving natural drainages, vegetation and buffer zones, and utilizing on site stormwater treatment techniques to the maximum extent practicable. (Ord. 776, 11-12-2013)~~

This Chapter implements the City's Post-Construction Stormwater Management BMP Program for new development and significant redevelopment (NDSR) projects as described in the City of Elko Stormwater Management Plan; Best Management Practices Manual, NPDES Post-Construction Stormwater Controls for New Development and Significant Re-Development Projects, City of Elko, Nevada and any subsequent revisions that are adopted by resolution of the City Council (the "BMP Manual"); and National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (Permit No. NVS040000 as of the date of enactment of this Ordinance). This Chapter furthers the City's goals of preventing



downstream violations of water quality standards by pollutants of concern to the maximum extent practicable caused or contributed to by stormwater discharges from post-construction projects, and promoting the improvement of ambient water quality by reducing the discharge of pollutants in stormwater.

#### 9-8-2: DEFINITIONS:

~~For the purposes of this chapter, the following shall mean:~~ As used in this Chapter, unless the context otherwise requires, the words and terms defined in this section shall have the following meanings ascribed to them:

ACCELERATED EROSION: Erosion caused by development activities that exceeds the natural processes by which the surface of the land is worn away by the action of water, wind, or chemical action.

APPLICANT: A ~~property owner or agent of a property owner~~ person who has filed an NDSR ~~a~~ Application for a stormwater management permit.

BEST MANAGEMENT PRACTICES (BMPs): "Best management practices" as it pertains to stormwater management in this chapter. More specifically, "BMP" refers to the document "Best Management Practices Manual, NPDES Post-Construction Stormwater Controls", Klienfelder Consultants, 2012. Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to the MS4, a watercourse or waters of the United States, to include stormwater, receiving water, or stormwater conveyance systems. BMPs include treatment practices, operating procedures, and other practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage. BMPs may be structural or nonstructural.

BMP OWNER: Any person, such as a property owner or developer, who seeks to own, operate, conduct, develop or maintain a Project.

CHANNEL: A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CITY: The City of Elko, Nevada, to include its departments, agencies, officials and employees.

CLEAN WATER ACT: The Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub. L. 92-500, as amended Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et seq.

DEDICATION: ~~The deliberate appropriation of property by its owner for general public use.~~ The appropriation of land, or an easement or other interest therein, by the owner, for the use of the public, and accepted for such use by or on behalf of the public.

DETENTION: The temporary storage of storm runoff ~~in~~ as part of a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

**DETENTION FACILITY:** A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

**DEVELOPER:** A person who undertakes land disturbance activities.

**DEVELOPMENT:** Any disturbance of land including clearing, grubbing, or grading in addition to the construction of facilities. "Development" does not include ["construction activities" as that term is defined in Elko City Code Section 9-7-2,](#) tenant improvements, or other similar building improvements not involving site work.

**DEVELOPMENT DEPARTMENT:** [The City of Elko Development Department or any other City of Elko department appointed to implement and/or enforce the provisions of this Chapter.](#)

**DISCHARGE:** [Any addition of a contaminant, pollutant or pollutants to the MS4, waters of the United States or a watercourse, including a "discharge of pollutant" as defined in 40 CFR § 122.2.](#)

**DRAINAGE EASEMENT:** ~~A legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.~~ [The right to use the land of another for the removal or conveyance of stormwater.](#)

**ENFORCEMENT OFFICIAL:** [The City of Elko Environmental Coordinator, City Code Enforcement Officer, or any other City of Elko employee appointed to serve as an Enforcement Official by the City Council to enforce the provisions of this Chapter.](#)

**EROSION AND SEDIMENT CONTROL PLAN:** A plan designed to minimize accelerated erosion and sediment runoff at a ~~site during construction activities~~ [development.](#)

**EROSION CONTROL:** [Any measure that designed to prevent erosion.](#)

**FACILITY:** [A Stormwater Facility, On Site Facility or Off Site Facility.](#)

**HYDROLOGIC SOIL GROUP (HSG):** A natural resource conservation service (USDA-NRCS) classification system in which soils are categorized into four (4) runoff potential groups. The groups range from "A" soils, with high permeability and little runoff production, to "D" soils, which have low permeability rates and produce much more runoff.

**IMPERVIOUS COVER:** Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

**INDUSTRIAL STORMWATER PERMIT:** A ~~n~~<sup>N</sup>~~a~~<sup>tional</sup> ~~p~~<sup>P</sup>~~o~~<sup>llutant</sup> ~~d~~<sup>D</sup>~~i~~<sup>s</sup>~~c~~<sup>h</sup>~~a~~<sup>r</sup>~~g<sup>e</sup> ~~e~~<sup>E</sup>~~l<sup>i</sup><sup>m</sup><sup>i</sup><sup>n</sup><sup>a</sup><sup>t</sup><sup>i</sup><sup>o</sup><sup>n</sup> ~~s~~<sup>S</sup>~~y~~<sup>s</sup><sup>t</sup><sup>e</sup><sup>m</sup> (NPDES) permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on site pollution control strategies.~~~~

**INFILTRATION:** The process of percolating stormwater into the subsoil.



**JURISDICTIONAL WETLAND:** An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

**LAND DISTURBANCE ACTIVITY:** Any activity that increases the volume or peak flow discharge rate of rainfall runoff from the land surface. This may include grading, grubbing, digging, cutting, scraping, or excavating the soil; also included within the definition of "land disturbance activity" are compaction, placement of fill materials, paving, construction, substantial removal of vegetation, or any activity which bares soil or rock or involves the diversion or piping of any natural or manmade watercourse.

**LANDOWNER:** ~~The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.~~ One who is recognized and held responsible by the law as the owner of real property.

**LOW IMPACT DEVELOPMENT (LID):** LID features are considered public domain treatment controls. LID is an approach to land development or redevelopment that works to manage stormwater close to its source. LID employs principles and techniques used in designing sites (starting from site layout, and grading and compaction phases of construction) that disturb only the smallest area necessary, minimize soil compaction and imperviousness, preserve natural drainages, vegetation and buffer zones, and utilize on-site stormwater treatment techniques. LID sites reduce and compensate for a development's impact(s) on hydrology and water quality. Rather than conventional hardpiping from impervious surfaces, implementing LID principles and practices, stormwater can be managed in a way that reduces the impact of built-up areas and promotes the natural movement of stormwater within an ecosystem or watershed. Applied on a broad scale, LID can support and promote a watershed's hydrologic and ecological functions.

**MAINTENANCE AGREEMENT:** ~~A legally recorded document that acts as a property deed restriction, and which provides for long term maintenance of stormwater management practices.~~

**MAXIMUM EXTENT PRACTICABLE (MEP):** Refers to the technology-based discharge standard for MS4s to reduce pollutants in stormwater discharges established by CWA § 402(p).

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** A collection of structures (retention basins, ditches, underground pipes, etc.) owned and operated by the City and not connected to the sanitary sewer system that is designed to gather stormwater and discharge it, without treatment, into local streams and rivers.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMIT:** A permit issued by EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general areawide basis.

**NDSR APPLICATION:** A document submitted to the City requesting permission to engage in an NDSR, subject to approval of a PSQMP and execution of an O&M Contract. Approval of the NDSR Application, without more, does not constitute approval by the City to engage in an NDSR.

NEW DEVELOPMENT OR SIGNIFICANT REDEVELOPMENT (NDSR): Land-disturbing activities, structural development, redevelopment and/or creation of impervious surfaces on a site, whether or not the site was previously developed.

NONPOINT SOURCE POLLUTION: ~~Pollution from any source other than from any discernible, confined, or discrete conveyance, and shall include, but not be limited to, pollutants from agriculture, silviculture, mining, construction, subsurface disposal, and urban runoff sources.~~ A source of waterborne sediments, nutrients or organic and toxic substances originating from activities involving the use of land, such as agriculture, mining, forestry, urban development or construction. The term does not include a discharge at a specific, single location such as a pipe.

NONSTRUCTURAL BMP: Refers to techniques that aim to change human behavior to reduce the amount of pollutants that enter stormwater systems (pollution prevention). Nonstructural measures may include minimization and/or disconnection of impervious surfaces, development design that reduces the rate and volume of runoff, public outreach and education, and/or restoration or enhancement of natural areas. A list of nonstructural BMPs is shown in Table 6-1 of the BMP Manual.

OFF-SITE FACILITY: A stormwater management measure located outside the subject property boundary and described in the ~~permit~~ application submittal for land development activity.

ON-SITE FACILITY: A stormwater management measure located within the subject property boundary and described in the ~~permit~~ application submittal for land development activity.

OPERATIONS AND MAINTENANCE (O&M) CONTRACT: A recorded legally-binding agreement between the City and a BMP Owner that acts as a property deed restriction, and which provides for long term maintenance of stormwater management practices. The O&M Contract serves to document the agreed upon maintenance schedule and commitment by the BMP Owner to perform maintenance.

PERMIT: The current National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges from Small Municipal Separate Storm Sewer Systems, (Permit No. NVS040000 at the time of enactment of this Ordinance), issued to the City of Elko and other public entities.

PERSON: Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or the owner's agent.

POSTCONSTRUCTION STORMWATER: A term used to distinguish stormwater practices used during site construction (otherwise known as "construction stormwater" or "erosion and sediment control") from those that are used on a permanent basis to control runoff once construction is complete and a Notice of Termination has been approved by the Nevada Division of Environmental Protection (NDEP).

POSTCONSTRUCTION STORMWATER QUALITY MANAGEMENT PLAN (PSQMP): A document which describes the BMPs and activities to be implemented by a person or business at a development to preserve the integrity of the MS4, waters of the United States and watercourses, including maintenance and protection of the physical, biological, and chemical qualities of watercourses; to prevent an increase in the rate of stormwater runoff; to minimize any increase in stormwater



runoff volume; to minimize impervious (i.e. paved) areas; to maximize the protection of existing drainage features and existing vegetation; to minimize land clearing and grading; to minimize soil compaction; and to use other structural or nonstructural BMPs that prevent or minimize changes in stormwater runoff. As used in this Chapter, a PSQMP shall be equivalent to and shall meet the requirements applicable to an "operations and maintenance plan" as that term is used in the BMP Manual.

PROJECT: An NDSR or any "project" listed in Subsection 3.2.1 (Project Applicability) (together with any amendments thereto) of the BMP Manual.

RECHARGE: ~~The replenishment of underground water reserves.~~ A hydrologic process where water moves downward from surface water to groundwater.

REDEVELOPMENT: Development, rehabilitation, expansion, or demolition ~~of phased projects~~ that disturbs the ground surface or increases the impervious area on a previously developed or disturbed ~~sites in areas where existing land use is high density commercial, industrial, institutional or multi-family residential.~~

RESPONDENT: A person to whom a notice of violation, citation or notice of civil infraction has been issued pursuant to this chapter or a person who is formally accused by the City of violating this chapter. The term "respondent" shall include any person defending a notice of violation, citation, notice of civil infraction or complaint issued on the basis of a violation of this chapter or who is otherwise subject to any punitive measure pursuant to this chapter.

REVEGETATION: The recreation of plant communities that cannot be easily distinguished from the healthy native plant communities surrounding them or in their general proximity.

SOURCE CONTROL: Techniques that aim to reduce the quantity and improve the quality of stormwater at or near its source by using infrastructure, natural physical resources or changes in practices.

~~STOP WORK ORDER: An order issued by the city or its designee which requires that all construction activity on a site be stopped.~~

STORMWATER: Any surface flow runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

STORMWATER BMP: A generic term used interchangeably with "stormwater practice" or "stormwater treatment practice." Stormwater BMPs can be either "structural" or "nonstructural."

STORMWATER CONVEYANCE SYSTEM: Publicly owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human made drainage channels, reservoirs and any other drainage structures.

STORMWATER MANAGEMENT: The use of structural or nonstructural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

STORMWATER MANAGEMENT PROGRAM (SWMP): A comprehensive program to manage the quality of stormwater discharged from the MS4.

~~STORMWATER POLLUTION PREVENTION PLAN (SWPPP): A document which describes the best management practices (BMPs) and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.~~

~~STORMWATER QUALITY MANAGEMENT PLAN: The documentation of the basis for design, construction, operation and maintenance of stormwater management facilities proposed in accordance with this chapter (see section 9-8-8 of this chapter).~~

~~STORMWATER RUNOFF: Flow of water resulting from precipitation on the surface of the ground.~~

STORMWATER TREATMENT DEVICE: An invention, contrivance or machine designed to capture pollutants and contaminants from surface water runoff before they reach the MS4, waters of the United States, a watercourse or a body of water.

STRUCTURAL BMPs OR STRUCTURAL TREATMENT CONTROLS: Public domain treatment controls or manufactured (proprietary) treatment controls. Public domain treatment controls are those that can be designed by an engineer and have been implemented and tested by numerous communities through the nation. Manufactured (proprietary) treatment controls are patented devices that have been engineered and constructed by private companies. In either case, engineering plans must be developed. A list of structural BMPs is shown in Table 7-1 of the BMP Manual (together with any amendments thereto). A list of manufactured (proprietary) treatment controls is shown in Table 8-1 of the BMP Manual (together with any amendments thereto).

WATER QUALITY VOLUME (WQ<sub>v</sub>): The storage needed to capture and treat ninety percent (90%) of the average annual stormwater runoff volume. Numerically, WQ<sub>v</sub> will vary as a function of long term rainfall statistical data.

~~WATERCOURSE: A permanent or intermittent stream or other body of water, either natural or humanmade, which gathers or carries surface water. (Ord. 776, 11-12-2013)~~ Any drainage or structure through which water may pass or drain and any body of water, including, but not limited to, lakes, ponds, rivers, streams, and bodies of water which have been delineated by federal, state, or local agencies in accordance with federal, state, or local laws.

In the event a term used in this Chapter is not defined in this Chapter, but is defined in another Chapter in this Title 9, the definition contained in the other Chapter shall apply.

#### 9-8-3: APPLICABILITY:

~~This chapter shall be applicable to approved postconstruction stormwater quality management plans and stormwater treatment devices. Access and maintenance agreements are required for the following development activities unless waived according to the terms outlined in section 9-8-7, "Waivers To Applicability", of this chapter:~~



~~A. Any new or significant redevelopment involving the following:~~

- ~~1. Building permits, conditional use permits, or site plan reviews that would create new industrial, commercial, or civic structures;~~
- ~~2. Subdivisions five (5) acres or greater in size;~~
- ~~3. Any new development that would specifically enable outdoor material storage; outdoor material loading/unloading; fueling areas; outdoor work, maintenance and wash areas; spill prevention, containment and cleanup; waste handling and disposal uses; any industrial use/automotive repair shop that has been assigned a standard industrial classification (SIC) code of 5013, 7532, 7533, 7534, 7537, 7538, and 7539;~~
- ~~4. Grading and site permits involving one or more acres of land except for individual single-family homes which are not subject to city of Elko hillside development regulations, section 3-2-28 of this code;~~
- ~~5. Development activities defined in subsections A2 and A3 of this section that are smaller than one acre if such activities are part of a larger common plan or development, even though multiple separate and distinct land development activities may take place at different times on different schedules; or~~
- ~~6. Development that will include constructed open channels and local or regional detention basins for flood management.~~

~~In addition, all plans must be reviewed by the city of Elko to protect established water quality standards after development of the site and to ensure that postconstruction runoff levels are consistent with local and regional watershed plans. The city of Elko shall not approve plans that fail to comply with this chapter or any applicable watershed plans.~~

~~B. Complete applications for applicable development permits and entitlements that have been submitted before the effective date hereof are exempt from the requirements of this section.~~

~~D. Permits and other approvals that were issued by the city of Elko before the effective date of this section shall not be subject to this section as long as the accompanying permit is valid. (Ord. 776, 11-12-2013)~~

This Chapter applies to all Projects during planning, design and/or construction.

9-8-4: RESPONSIBILITY FOR ADMINISTRATION AND COMPLIANCE:

~~The city of Elko shall administer and enforce the provisions of this chapter. (Ord. 776, 11-12-2013)~~

The Development Department shall implement and enforce this Chapter through the Development Application and PSQMP review processes, the enforcement provisions of this Chapter and an Operations and Maintenance (O&M) Contract. Projects that do not satisfy the requirements of this Chapter (including those portions of the SWMP, BMP Manual and Permit that are incorporated herein

by reference), will not receive approval by the Development Department and may not commence or proceed. Development Department approval of the PSQMP is required for final approval by the City.

This Chapter incorporates portions of the SWMP, BMP Manual and Permit by reference. These documents are available for inspection and copying during normal business hours at the office of the City of Elko Environmental Coordinator, 1751 College Avenue, Elko, Nevada. References to the BMP Manual and Permit shall include any subsequent amendments thereto, to include renumbered or retitled provisions containing the applicable substantive requirements.

The standards set forth herein and promulgated pursuant to this Chapter are minimum standards; therefore, compliance with this Chapter does not ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants. The prevention of contamination, pollution, or unauthorized discharges of pollutants is the responsibility of each person subject to the applicable provisions of Title 9 of the City Code, federal and state law, and the holder of an NPDES permit or other permit pertaining to discharges. The acts and omissions of employees and agents in the course and scope of their employment or official duties shall be deemed the acts and omissions of their employers and principals, except as otherwise provided by law.

#### **9-8-5: PERMIT PROCEDURES AND REQUIREMENTS NDSR APPLICATION, POSTCONSTRUCTION STORMWATER QUALITY MANAGEMENT PLAN (PSQMP) REVIEW AND O&M CONTRACT:**

- A. ~~Permit Required: No landowner or land operator shall receive any of the building, grading or other land development permits required for land disturbance activities without first meeting the requirements of this chapter prior to commencing the proposed activity.~~ Project Requirements: No Project subject to this Chapter, the BMP Manual, or the Permit shall commence or continue unless:
1. A properly completed NDSR Application has been approved by the Development Department;
  2. A PSQMP has been (a) determined to satisfy the requirements of this Chapter, (b) approved by the Development Department and (c) recorded with the Elko County Recorder; and
  3. An O&M Contract has been (a) executed by the BMP Owner and the City and (b) recorded with the Elko County Recorder.
- B. ~~Development Application: Any person submitting any form of application under this section for development of property to the city of Elko for approval shall concurrently submit to the city of Elko a postconstruction stormwater management plan as a part of the application.~~ NDSR Application: The NDSR Application shall be submitted on a form provided by the City and shall contain the following information:
1. The name, address, telephone number and email address of the BMP Owner.
  2. A detailed description of the Project of the potential impacts that the NDSR will have on the City, specifically related to stormwater quantity and quality, including supporting



documentation and all information needed to complete the forms in the Appendix of the BMP Manual.

~~C. Grading Permit Application Requirements: Unless specifically excepted by this chapter, any land owner or operator desiring a permit for a land disturbance activity shall submit to the city of Elko a grading permit application meeting the terms of section 9-8-3, "Applicability", of this chapter which application must be accompanied by the following documents:~~

- ~~1. A postconstruction stormwater quality management plan demonstrating that the project will meet the requirements of section 9-8-6 of this chapter.~~
- ~~2. Project plans showing a sufficient level of detail to demonstrate that the project meets all applicable city of Elko requirements.~~
- ~~3. A postconstruction stormwater quality management plan demonstrating that the project will meet the requirements of section 9-8-8 of this chapter.~~
- ~~4. A stormwater treatment device access and maintenance agreement which meets the requirements of section 9-8-10 of this chapter.~~

~~Permits issued under this section shall be valid from the date of issuance through the date the city of Elko notifies the permit holder that all stormwater management practices have passed the final inspection required under the permit or associated development approvals expire, whichever occurs first. (Ord. 776, 11-12-2013)~~

C. PSQMP: The PSQMP shall be written by a design engineer or plan designer and contain the following:

1. Identification of:

- (a) The BMP Owner(s);
- (b) The parties or parties responsible for operation and maintenance of the BMPs; and
- (c) Source(s) of funding for continued operation and maintenance of the BMP(s).

2. A schedule for BMP implementation, maintenance and monitoring consistent with the requirements and guidelines set forth in the SWMP, the BMP Manual (to include, without limitation, Subsection 3.2.6) and the Permit (together with any amendments to the applicable provisions in either document).

3. A description of the Stormwater Facility and its components, inspection priorities, an inspection schedule for each component, a description of routine and infrequent maintenance tasks, and a schematic for each BMP consistent with the requirements and guidelines set forth in the BMP Manual.

4. The planning and design principles described in Section 4 of the BMP Manual.

5. Any further actions required by the City to bring BMPs into compliance with applicable standards.
6. As-built plans for any Stormwater Facilities located on-site after final construction is completed.
7. The elements described in Subpart VI.E. of the Permit (together with any amendments thereto).

D. O&M Contract Elements: The O&M Contract shall contain the following elements:

1. The contract document signed by the BMP Owner and the City containing the terms and conditions set forth in this section;
2. The PSQMP; and
3. A drawing of easements on a system location map with sufficient detail and accuracy to enable the City or the BMP Owner to locate the BMPs.

E. O&M Contract Terms and Conditions: The O&M Contract shall contain the following terms and conditions:

1. The BMP Owner shall (a) provide for adequate long-term maintenance and continuation of the stormwater control measures (including the BMPs and/or Stormwater Facility) described in the PSQMP and shown on an attached location map, deed of easement or drawing, and (b) ensure that the BMPs and/or Stormwater Facility are and remain in proper working condition in accordance with the SWMP, approved design standards, rules and regulations, and applicable laws.
2. The BMP Owner shall inspect and perform preventative maintenance activities at intervals described in the inspection schedule included in the O&M Contract and/or PSQMP, together with ongoing and regular landscaping and trash removal as needed.
3. The BMP Owner shall submit an annual report to the City according to a schedule established by the City in the O&M Contract. The report shall include the PSQMP (together with any amendments or revisions thereto) documenting the inspection schedule; times of inspection; remedial actions taken to repair, modify or reconstruct the BMPs and/or Stormwater Facility; the state of control measures; and notification of any planned change in the responsibility for the BMPs and/or Stormwater Facility.
4. The BMP Owner shall grant to the City or its agent or contractor the right of entry at reasonable times and in a reasonable manner for the purpose of inspecting, operating, installing, constructing, reconstructing, maintaining or repairing the BMPs and/or Stormwater Facility.
5. The BMP Owner shall grant to the City the necessary easements and rights-of-way to maintain perpetual access from public rights-of-way to the BMPs and/or Stormwater Facility by the City or its agent or contractor.



6. If, upon inspection, the City finds that the BMP Owner has failed to properly maintain the BMPs and/or Stormwater Facility, the City may order the work performed within thirty (30) days. In the event the work is not performed within the specified time, the BMP Owner agrees to allow the City to enter the property and take whatever steps it reasonably deems necessary to maintain the BMPs and/or Stormwater Facility. This provision shall not be construed to allow the City to erect any structure of a permanent nature on land owned by the BMP Owner without first obtaining the BMP Owner's written approval.
7. The City is not required to maintain or repair the BMPs and/or Stormwater Facility. The BMP Owner shall reimburse the City upon demand for its costs incurred in the maintenance of the BMPs and/or Stormwater Facility.
8. If the BMP Owner fails to pay the City for the above costs within fourteen (14) calendar days of receipt of written demand therefor, the BMP Owner authorizes the City to recover the cost from the BMP Owner through appropriate legal action and the BMP Owner will be liable for the reasonable expenses of collection, court costs and attorney fees.
9. The BMP Owner and its heirs, administrators, executors, assigns and successors in interest shall defend, indemnify and hold harmless the City and its officers, agents and employees from and against any and all damages, accidents, casualties, occurrences, claims, suits, actions, costs or attorney's fees which might arise or be asserted, in whole or in part, against the City from the construction, presence, existence or maintenance of the BMPs and/or Stormwater Facilities subject to the O&M Contract. In the event a claim is asserted against the City, its officers, agents or employees, the City shall notify the BMP Owner and the BMP Owner shall indemnify and defend at the BMP Owner's expense any suit based on the claim. If any judgment or claim against the City, its officers, agents or employees is allowed, the BMP Owner will pay all costs and expenses in connection therewith. The City will not indemnify, defend or hold harmless the BMP Owner from any claims arising from any failure of a BMP and/or Stormwater Facility, regardless of any language in any document the BMP Owner may prepare or provide.
10. The BMP Owner shall not transfer, assign or modify its responsibilities with respect to the O&M Contract without the City's prior written consent.
11. No waiver of any provision of the O&M Contract shall affect the right of any party to thereafter enforce such a provision or to exercise any right or remedy available.
12. The BMP Owner shall record a map showing and accurately defining the easements for BMPs and/or Stormwater Facilities. The map must (a) reference the County Recorder's book and page numbers where the O&M Contract and its attachments are recorded and (b) contain a note stating that the BMP Owner is responsible for maintaining the BMPs and/or Stormwater Facilities.
13. The BMP Owner shall record the O&M Contract (including attachments) with the Elko County Recorder and the O&M Contract (including attachments) shall constitute a

covenant running with the land and shall be binding upon the BMP Owner and the BMP Owner's heirs, administrators, executors, assigns and successors in interest.

#### **9-8-6: STANDARDS PUBLIC WORKS PROJECTS:**

- ~~A. Postconstruction Stormwater Quality Management Plan: The postconstruction stormwater quality management plan required in section 9-8-8 of this chapter shall be prepared by a licensed professional civil engineer (PE), registered in the state of Nevada, and shall be prepared in accordance with the publication: "Best Management Practices Manual, NPDES Post-Construction Stormwater Controls", Klienfelder Consultants, 2012, and shall satisfy the requirements of section 9-8-10 of this chapter. The performance standards are set forth in the "City Of Elko Construction Site Best Management Practices Handbook" together with any addenda, all of which are available for review at the office of the city clerk, and which are adopted by this reference and incorporated herein and made part hereof as if set forth in full. (Ord. 776, 11-12-2013)~~

In the event a Project subject to this Chapter is a public works project pursuant to NRS Chapter 338, in addition to the other requirements of this Chapter, the Enforcement Official or her or his designee may inspect the Project periodically throughout the course of the work thereon to verify compliance with this Chapter, the PSQMP and O&M Contract. The results of all such inspections shall be reported to the City of Elko Public Works Department and City Manager. The remedies provided under this Chapter or an O&M Contract shall be in addition to any remedies provided under a public works contract.

#### **~~9-8-7: WAIVERS TO APPLICABILITY:~~**

~~Every applicant for a permit to conduct a land disturbance activity shall perform all acts, to the maximum extent practicable, needed to provide stormwater management as required by this chapter, unless a written request to waive a given requirement is granted by the city of Elko at its discretion.~~

- ~~A. The minimum requirements for postconstruction stormwater management may be waived in whole or in part only if at least one of the following circumstances exists:~~

- ~~1. The proposed development is not likely to impair attainment of the objectives of this chapter.~~
- ~~2. Alternative minimum requirements for on site management of stormwater discharges have been established in a stormwater management plan that has been approved by the city of Elko and the implementation of the plan by the applicant is required by local ordinance.~~
- ~~3. Provision is made to manage stormwater by an off site facility. The off site facility is required to be in place, and is designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on site practices, and there is a legally obligated entity responsible for long term operation and maintenance of the stormwater practice.~~



~~4. The city of Elko finds that meeting the minimum on-site management requirements is not feasible due to the natural or existing physical characteristics of a site and the development will not negatively impact existing public infrastructure.~~

~~5. Nonstructural practices will be used on sites that reduce:~~

- ~~a. The generation of stormwater from the site;~~
- ~~b. The size and cost of stormwater storage; and~~
- ~~c. The pollutants generated at the site.~~

~~B. In instances where one of the above conditions applies, the city of Elko may grant a waiver, at its discretion, from strict compliance with these stormwater management requirements, as long as acceptable mitigation measures are provided. However, to be eligible for a waiver, the applicant must demonstrate to the satisfaction of the city of Elko that the waiver will not result in any of the following impacts to downstream waterways:~~

- ~~1. Deterioration of existing culverts, bridges, dams, or other structures;~~
- ~~2. Degradation of biological functions or habitat;~~
- ~~3. Accelerated stream bank or streambed erosion or siltation; or~~
- ~~4. Increased threat of flood damage to public health, life, property. (Ord. 776, 11-12-2013)~~

#### ~~9-8-8: REQUIREMENTS FOR STORMWATER QUALITY MANAGEMENT PLAN:~~

~~A. Stormwater Quality Management Plan Required For All Developments: No application for development subject to this chapter (see section 9-8-3 of this chapter) will be approved unless it includes a stormwater quality management plan (also referred to in this chapter as the "plan") detailing how runoff and associated water quality impacts resulting from the development will be controlled or managed in accordance with the performance standards established in the latest edition of the city of Elko "Best Management Practices Manual, NPDES Post-Construction Stormwater Controls". The plan shall contain sufficient information for the city of Elko to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The plan must fully describe the proposed project in drawings and narrative.~~

~~The final stormwater quality management plan must be submitted with the development plan(s). No permit(s) shall be issued until a satisfactory final stormwater quality management plan, or a waiver thereof, has been approved by the city of Elko.~~

~~B. Final Stormwater Quality Management Plan Requirements:~~

- ~~1. Contact Information: The applicant shall provide the name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected. This information shall include a~~

locus map and description of the existing zoning and land use (including all existing structures) at the site as well as the proposed land use.

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2. **Hydrology Report:** The applicant shall submit a hydrology report, which must include: a map showing the location(s) of existing and proposed easements; existing and proposed utilities; existing and proposed topography with contours at two foot (2') intervals and the existing site hydrology. This shall consist of a description and delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater flows; surface water drainage including streams, ponds, culverts, and ditches; a delineation of 100-year floodplains and estimated seasonal high groundwater elevation in areas to be used for stormwater retention, detention, or infiltration (if applicable).

A drainage area map shall accompany the hydrology report and shall show existing and proposed vegetation and ground surfaces, and pre- and post-construction watershed boundaries, drainage area and stormwater flow paths.

The plan shall include a description and drawings of all components of the proposed drainage system including: locations, cross sections, and profiles of all brooks, streams, drainage swales and their methods of stabilization; all measures for the detention, retention or infiltration of water; all measures for the protection of water quality; the structural details for all components of the proposed drainage systems and stormwater management facilities; notes on drawings specifying materials to be used, construction specifications, and other features typically shown in such plans and drawings, and expected hydrology (calculations to be provided as described in subsection B3 of this section).

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3. **Calculations:** Hydrologic and hydraulic design calculations for the predevelopment and postdevelopment conditions for the design storms shall be provided in the manner specified in the "Best Management Practices Manual, NPDES Post-Construction Stormwater Controls", Klienfelder Consultants, 2012. Such calculations shall include: a) description of the design storm frequency, intensity and duration, b) time of concentration, c) soil curve numbers or runoff coefficients, d) peak runoff flow rates and total runoff volumes for each watershed area, e) infiltration rates, where applicable, f) culvert capacities, g) flow velocities, h) data on the increase in rate and volume of runoff for the design storms referenced in the "Best Management Practices Manual, NPDES Post-Construction Stormwater Controls", Klienfelder Consultants, 2012, and i) documentation of sources for all computation methods and field test results.
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4. **Soils Information:** If a stormwater management control measure depends on the hydrologic properties of soils (e.g., infiltration basins), then the applicant shall submit a soils report to the city of Elko. The soils report shall be based on on site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure.
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5. **Maintenance And Repair Element For Private Stormwater Facilities:** The design and planning of all stormwater management facilities shall include detailed maintenance and

repair procedures to ensure their continued function. Components of a stormwater management facility that need to be maintained and the equipment and skills or training required must be identified and described in the plan. Provision for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

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6. ~~Maintenance And Drainage Easements And Agreements:~~ The applicant must ensure access to all stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements shall be recorded with the plan and shall run with the land.

~~Prior to the issuance of any permit that requires a stormwater management facility, the applicant or owner of the site must execute a maintenance agreement with the city of Elko that shall be binding on all subsequent owners of land served by the stormwater management facility. The maintenance agreement shall provide for access to the facility at reasonable times for periodic inspection by the City of Elko, or its contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition, and that it meets the design standards and any other provisions established by this chapter. The maintenance agreement shall be recorded by the City of Elko with the Elko County Recorder.~~

~~Maintenance of all private stormwater management facilities shall be ensured through the creation of a formal maintenance agreement that must be approved by the City of Elko and recorded into the land record prior to final acceptance of the development by the City of Elko. As part of the agreement, a schedule shall be developed for periodic inspections and maintenance to ensure proper performance of the facility.~~

~~All stormwater management facilities must undergo, at the minimum, an annual inspection to document maintenance and repair needs, and to ensure compliance with the requirements of this chapter. These needs may include: removal of silt, litter and other debris from all catch basins, inlets, and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs must be addressed in a timely manner, as determined by the City of Elko, and the inspection and maintenance requirement may be increased as deemed necessary to ensure proper functioning of the stormwater management facility. See section 9-8-10 of this chapter for further information on maintenance requirements.~~

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7. ~~Other Environmental Permits:~~ The applicant must either attach appropriate erosion and sediment control plans to the stormwater pollution prevention plan (if required under other provisions of this Code) or prepare an erosion and sediment control plan employing practices that conform to the "City of Elko Construction Site Best Management Practices Handbook" for all construction activities related to implementing on-site structural BMPs included in the final stormwater quality management plan.

~~The applicant shall ensure that all other applicable environmental permits have been acquired for the site prior to approval of the final stormwater design plan.~~

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~~8. Performance Guarantee: The City of Elko may require the submittal of a performance guarantee in a form provided under subsection 3-3-22B of this Code in order to ensure that the stormwater quality management plan has been implemented or will be implemented correctly and by a certain date. The amount of the performance guarantee shall be the total estimated construction cost of the stormwater management practices approved under the permit. The performance guarantee shall contain forfeiture provisions, approved by the City of Elko, for failure to complete work specified in the stormwater quality management plan.~~

The City of Elko may partially release the performance guarantee at its discretion as work is satisfactorily completed. Notwithstanding the foregoing, the performance guarantee shall be released in full only upon submission of "as built plans" and written certification by a licensed professional engineer (PE), that the stormwater quality management plan has been fully implemented. The City of Elko will make a final on site inspection to ensure that all construction is in full compliance with the approved plan(s) and the provisions of this chapter. (Ord. 776, 11-12-2013)

#### ~~9-8-9: CONSTRUCTION INSPECTION PROVISIONS:~~

~~A. Notice Of Construction Commencement: The applicant must notify the City of Elko in advance before the commencement of construction. During construction, inspection of stormwater management facilities may be required by the City of Elko and, if so, the inspections shall be conducted by a licensed professional engineer (PE). All inspections shall be documented by written reports prepared by the licensed professional engineer and shall contain the following information:~~

- ~~1. The date and location of the inspection;~~
- ~~2. Whether construction is in compliance with the approved stormwater quality management plan;~~
- ~~3. If and where variation from the approved construction specifications have occurred. If variations from the approved construction plans have occurred, the professional engineer's report will specify the nature and location of any variation(s).~~

~~B. As Built Plans: All applicants are required to submit actual "as built" plans for any stormwater management facilities located on site after final construction has been completed. One hard copy, together with a digital copy of the "as built" plans must be provided to the City of Elko. The plans must show the final design specifications for all stormwater management facilities and must be certified by a licensed professional engineer (PE) registered in the state of Nevada. A final inspection by the city of Elko is required before the release of performance securities can occur.~~

~~C. Landscaping And Stabilization Requirements: Any area of land from which the natural vegetative cover has been either partially or wholly cleared, or removed by development activities shall be: 1) stabilized within fourteen (14) days of the substantial completion of such clearing and construction in order to prevent erosion and provide sediment control and 2) revegetated no later than the next growing season. The owner of the property shall be~~



responsible for implementing appropriate fertilization and irrigation measures, if deemed necessary by the city of Elko.

The following criteria shall apply to the revegetation requirement:

Complete revegetation must be permanently established in accordance with one of the following time frames, and at the sole discretion of the city of Elko:

1. Within two (2) years after the issuance of a final certificate of occupancy (C of O) of the building or premises, subject to the execution of a performance agreement with the city of Elko which includes bonding or some other acceptable form of security that guarantees completion of the required work; or
2. Prior to final approval of the project; or
3. Within two (2) years after completion of grading activity, subject to the execution of a performance agreement with the city of Elko to include bonding or some other acceptable form of security that guarantees completion of the required work.

Seeding or reseeding should occur during the season most appropriate for the plant species and/or type of vegetation being planted. The installation of a temporary irrigation system, at the expense of the owner, may be required by the city of Elko to ensure establishment of the seeding or planting project, at the city of Elko's discretion. The foregoing requirements may depend upon factors such as the season in which planting takes place and variation in climatic condition.

Reseeding must include an annual or perennial cover crop in addition to the primary and secondary revegetation species. Revegetation species are preferably composed of native drought tolerant plant species, and are accompanied by the placement of an acceptable mulch of sufficient thickness and coverage to limit erosion until such time as the cover crop equals, averages, or exceeds a plant cover of seventy percent (70%) over the entire seeded area. Such establishment shall be in place for a period of one year. The "City Of Elko Construction Site Best Management Practices Handbook" contains an extensive list of suitable plant species that are adapted to the climate and weather conditions of northeastern Nevada and are recommended for revegetation of disturbed sites.

Replanting with native woody and/or herbaceous plant species must be accompanied by application of an appropriate mulch of sufficient thickness and coverage to control erosion until the plantings are established and are themselves capable of controlling erosion. (Ord. 776, 11-12-2013)

#### **9-8-10: MAINTENANCE AND REPAIR OF STORMWATER FACILITIES:**

- A. Access And Maintenance Agreements: As provided in section [9-8-8](#) of this chapter, a formal maintenance agreement for all structural stormwater facilities is required by the city of Elko under this chapter. Under certain circumstances, the city of Elko may require that the maintenance agreement be recorded with the county recorder as a condition precedent to final plan approval. Also, at the city of Elko's sole discretion under certain conditions and for

~~specific development types, the city of Elko may accept dedication of existing or future stormwater management facility(ies) in lieu of a maintenance agreement. This exception will be considered only if such facility(ies) meet all requirements of this chapter and include(s) adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance. This exception will be considered on a case by case basis and at the sole discretion of the city of Elko, with preference given to residential developments.~~

~~B. Inspection Of Stormwater Facilities: Inspection programs may be established on any reasonable basis, including, but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the NPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and/or material or water in drainage control facilities; and to evaluate the condition of drainage control facilities or other stormwater treatment practices.~~

~~C. Right Of Entry For Inspection: When any new stormwater management or control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer or combined sewer, the property owner shall grant to the city of Elko the right to enter said property at reasonable times and in a reasonable manner for the purpose of inspection and/or maintenance. This includes the right to enter a property when the city of Elko has a reasonable basis to believe that a violation of this chapter is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this chapter.~~

~~D. Records Of Installation And Maintenance Activities: Parties responsible for the operation and maintenance of stormwater management facilities shall make and maintain records of the installation including all maintenance and repairs, and shall retain said records for at least seven (7) years from the date of completion or installation and will include all maintenance and repair activities. These records shall be made available to the city of Elko during inspection of the facility and at other reasonable times upon request.~~

~~E. Failure To Maintain Practices: If a responsible party fails or refuses to meet the requirements of the maintenance agreement, the city of Elko, after reasonable notice sent by certified mail, may correct a violation of the design standards or maintenance needs by performing all necessary work to return the facility to proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the city of Elko shall notify the party responsible for maintenance of the stormwater management facility in writing. Upon receipt of that notice, the responsible person shall have thirty (30) days to effect maintenance and repair of the facility in a manner approved by the city of Elko. After proper notice, delivered personally or by certified mail, the city of Elko may assess the owner(s) of the facility for the cost of any repair work deemed necessary by the city of Elko, together with any penalties which may be assessed under this code; and the cost of the work~~

~~shall be a lien on the property and may be placed on the tax bill and collected as ordinary taxes by the county. (Ord. 776, 11-12-2013)~~

**9-8-11 7: ENFORCEMENT AND PENALTIES:**

~~A. Violations: Any development activity that is commenced or is conducted contrary to this chapter may be restrained by injunction or otherwise abated in a manner provided by law.~~

~~B. Notice Of Violation (NOV): When the city of Elko determines that an activity is not being carried out in accordance with the requirements of this chapter, it shall issue a written notice of violation (NOV) to the owner of the property. The notice of violation shall contain:~~

~~1. The name and address of the owner or applicant;~~

~~2. The address of the facility when available or a legal description of the building, structure or land upon which the violation is occurring;~~

~~3. A statement specifying the nature of the violation;~~

~~4. A description of the remedial measure(s) necessary to bring the development's activity into compliance with this chapter and a time schedule for the completion of such remedial action;~~

~~5. A statement of the penalty or penalties, if any, that shall or may be assessed against the person to whom the notice of violation is directed; and~~

~~6. A statement that the determination of violation may be appealed to the Elko city council by filing a written notice of appeal with the proper department within thirty (30) days of service by personal delivery or certified mail of the notice of violation.~~

~~C. Stop Work Orders: A notice of violation shall automatically constitute a stop work order; accordingly, persons receiving a notice of violation will be required to cease all construction activities. The stop work order will be in effect until the city of Elko confirms that the development activity is in compliance with all city of Elko requirements and that the violation has been satisfactorily addressed. Failure to address a notice of violation (NOV) by the date specified in the notice of violation letter can result in civil, criminal, and/or monetary penalties in accordance with the enforcement measures authorized in this chapter.~~

~~D. Civil And Criminal Penalties: In addition to or as an alternative to any penalty provided herein or by law, any person who has violated or continues to violate this chapter shall be subject to a criminal penalty up to one thousand dollars (\$1,000.00) per violation per day.~~

~~The city of Elko may recover all attorney fees, court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.~~

~~E. Restoration Of Lands: Any person found in violation of this chapter may be required to restore land disturbed by construction activities to its undisturbed condition. In the event that restoration is not undertaken within the time specified in a notice of violation, the city of Elko~~

may take necessary corrective action to restore the land, the cost of which shall become a lien upon the property until paid. Nothing herein shall prevent the city of Elko from using a performance guarantee to obtain reimbursement for the cost of restoring land pursuant to this subsection.

~~F. Holds On Occupation Permits: Certificates of occupancy (C of O) and/or acceptance of public improvements will not be granted until required corrections to all stormwater facilities and practices have been made and accepted by the city of Elko.~~

~~G. Injunctive Relief: The city of Elko may seek injunctive relief in order to enforce the provisions of this chapter. (Ord. 776, 11-12-2013)~~

A. Notice of Violation: In addition to any remedies provided under the O&M Contract, in the event the City determines that a person has violated a prohibition or failed to meet a requirement of this Chapter 8, to include applicable portions of the BMP Manual incorporated herein or an approved PSQMP, the City may compel compliance by serving a written Notice of Violation upon the BMP Owner or the BMP Owner's agent or representative by certified mail, return-receipt requested. A Notice of Violation issued under this section may require, without limitation:

1. That the acts or omissions resulting in a discharge cease immediately or no later than a specified date;

2. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and

3. The payment of a fine established by this Chapter or by resolution of the City Council to cover administrative and remediation costs; and/or

4. Implementation of BMPs.

B. Deadline: If abatement of a violation and/or restoration of affected property is required, the Notice of Violation shall set forth a deadline by which such remediation or restoration must be completed. Should the respondent fail to perform the remediation or restoration therein specified by the deadline, the work may be done by the City or a designated governmental agency or contractor and the expense thereof shall be charged to the respondent.

C. Citations: The Enforcement Official or her or his designee shall have the authority to prepare, sign and serve written citations on persons accused of violating a provision of this Chapter where there is a criminal sanction. All citations so issued and served shall comply with the requirements of NRS 171.1773 and NRS 171.1775(5).

D. Civil liability instead of criminal sanction: In addition to any remedies provided under the O&M Contract, any person who violates this Chapter may be subject to civil liability to the City in an amount not to exceed \$500 instead of a criminal sanction.



E. Civil liability; notice of civil infraction: The Enforcement Official or her or his designee may issue a Notice of Civil Infraction to any person who violates this Chapter. The Notice of Civil Infraction must be issued on a form containing the following information:

1. The location where the violation occurred;
2. The date and time of the violation;
3. The signature of the Enforcement Official or other authorized person who issues the Notice of Civil Infraction;
4. The section of this Chapter that allegedly is being violated;
5. Information about the manner and time within which the Notice of Civil Infraction must be answered;
6. The amount of the civil fine; and
7. Any other information relevant to the violation and applicable provisions of this Chapter.

F. Civil liability; duties of respondent:

1. A person who responds to a notice of civil infraction must either:
  - a. Admit the commission of the infraction and pay the appropriate civil fine; or
  - b. Deny liability for the infraction.
2. A person may admit commission of the infraction by paying to the municipal court the civil fine shown on the notice of civil infraction.
3. A person who denies liability for the infraction must appear in person before the municipal court.

G. Commencement of civil action; procedure: Judicial enforcement of a notice of civil infraction must be by way of a civil suit in the municipal court if a person denies liability. A civil action may be commenced by the filing of a complaint in the name of the City and the issuance of a summons with respect thereto, and service of such complaint and summons on the defendant must be made by certified mail, return receipt requested, addressed to the defendant at his or her last known address or in any other manner which is authorized by law. The proceedings in municipal court for actions commenced pursuant to this chapter shall be governed by Rules 1 and 3 through 87 of the Justice Court Rules of Civil Procedure.

H. Civil Fines: A respondent who commits a civil infraction under this Chapter shall be subject to a civil fine in the amount of \$500.00 per infraction.

I. Lien: The City shall have a lien pursuant to NRS 108.222 on any property upon which work is performed by the City or its contractor in correcting a violation of this Chapter pursuant to this

Section 9-8-6. The lien shall be calculated, perfected and enforced in accordance with NRS 108.221, et seq. (Mechanics' and Materialmen's Liens).

- J. Withholding of Approvals: Should the City perform work on the installation, maintenance, or removal of stormwater control measures pursuant to this Section 9-8-6, the respondent shall reimburse the City the full amount of that expense prior to issuance of any permit, final approval or certificate of occupancy associated with property upon which the work is performed, and the City shall withhold all permits, final approvals and/or certificates of occupancy for the property or which have been requested by the respondent until the expense is fully reimbursed to the City.

**9-8-12 8: APPEAL OF NOTICE OF VIOLATION:**

~~Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency to the Elko city council. The notice of appeal must be received within thirty (30) days from the date of receipt of the notice of violation. Hearing on the appeal before the Elko city council shall take place within forty five (45) days from the date of receipt of the notice of appeal, unless otherwise extended at the request of the applicant. An aggrieved person may seek judicial review of the decision of the city council by filing an appropriate petition with a court of competent jurisdiction within thirty (30) days of the decision. (Ord. 776, 11-12-2013)~~

- A. A Notice of Violation issued pursuant to this Chapter 8 shall include a written notice setting forth the respondent's appeal rights pursuant to this Section 9-8-8.
- B. A respondent served with a Notice of Violation, within fourteen (14) calendar days of service thereof, may appeal the determination of the Enforcement Official to the City Manager by filing a "Notice of Appeal to the City Manager" with the City Clerk containing a statement of the basis for the appeal. The City Manager or the City Manager's designee shall schedule and conduct a hearing on the Notice of Violation within fourteen (14) calendar days thereafter, upon no less than seven (7) calendar days' advance notice to the respondent, unless otherwise agreed by the respondent and the City. At the hearing before the City Manager or the City Manager's designee, the respondent and the City shall each be given an opportunity to present arguments and evidence, to include witness testimony. The rules of evidence shall not apply. The City Manager or the City Manager's designee may terminate the hearing at a time determined in advance by the City Manager or the City Manager's designee, provided a reasonable time shall be given to permit the respondent and the City to present their respective arguments and evidence. The City Manager or City Manager's designee may terminate a hearing at any time upon a determination that the additional evidence and argument to be proffered by the respondent and the City will be duplicative or not relevant to the issues to be resolved. The City Manager or the City Manager's designee shall issue and serve a written decision upon the respondent with five (5) business days of the hearing.
- C. A respondent may, within fourteen (14) calendar days of service thereof, appeal the decision of the City Manager or the City Manager's designee to the City Council by filing a "Notice of Appeal to the City Council" with the City Clerk containing a statement of the basis for the appeal. The City Council shall, within forty-five (45) calendar days thereafter, conduct a hearing on the decision of the City Manager or City Manager's designee. At the hearing before the City Council, the respondent and the City shall each be given an opportunity to present



arguments and evidence, to include witness testimony. The rules of evidence shall not apply. The City Council may terminate the proceeding at a time determined in advance by the City Manager or the City Manager's designee, provided a reasonable time shall be given to permit the respondent and the City to present their respective arguments and evidence. The City Council may terminate a hearing at any time upon a determination that the additional evidence and argument to be proffered by the respondent and the City will be duplicative or not relevant to the issues to be resolved. The City Council shall render a decision at the hearing, to include a continuation thereof in the event the hearing is tabled.

- D. Service upon the respondent for purposes of this Section 9-8-8 shall mean service by certified mail, return receipt requested.
- E. A respondent to whom a Notice of Violation has been issued must comply with the requirements stated therein pending an appeal or appeals pursuant to this Section 9-8-8.
- F. The failure of a respondent to appeal a decision within the times required by this Section 9-8-8 shall result in the waiver of those appeal rights.
- G. The decision of the City Council at an appeal hearing pursuant to this Section 9-8-8 shall be final for purposes of judicial review. Any action for judicial review shall be commenced by filing a petition with the District Court for the Fourth Judicial District, in and for the County of Elko, State of Nevada, no more than thirty (30) calendar days from the date of the decision of the City Council at an appeal hearing pursuant to this Section 9-8-8.

#### 9-8-9: INJUNCTIVE RELIEF:

If a person has violated or continues to violate the provisions of this chapter, the City agency may petition for a preliminary or permanent injunction restraining the person from activities which could create further violations or compelling the person to perform abatement or remediation of the violation.

#### 9-8-10: VIOLATIONS DEEMED A PUBLIC NUISANCE:

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is hereby determined to be a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be abated pursuant to the provision of Nevada Revised Statutes Chapter 268 or restored at the violator's expense, and/or civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. The provisions of this Section 9-8-10 and the City Nuisance Code are in addition to and not in lieu of the other enforcement provisions set forth in this Chapter 8.

#### 9-8-11: CRIMINAL PENALTIES:

Any person who has violated or continues to violate the requirements of this Chapter, to include any requirement set forth in a Notice of Violation issued under this Chapter, shall be subject to a criminal penalty of one thousand dollars (\$1,000.00). Each day a person violates this Chapter or remains in violation of this Chapter shall be a separate violation. In addition, any person who has violated or continues to violate this Chapter may be subject to criminal prosecution under federal or state laws.



The City may recover all attorney fees, court costs and other expenses incurred in the enforcement of this Chapter, including sampling and monitoring expenses.

**9-8-13 ~~12~~: REMEDIES NOT EXCLUSIVE:**

The remedies listed in this ~~e~~Chapter are not exclusive of any other remedies available under any applicable federal, state, or local law and it is within the discretion of the ~~city of Elko~~ authorized enforcement agency to seek cumulative remedies. ~~(Ord. 776, 11-12-2013)~~

**Section 4:** All ordinances or parts of ordinances in conflict herewith are hereby repealed, but only to the extent of such conflict

**Section 5:** If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid, unenforceable, or unconstitutional by a court of competent jurisdiction, the invalidity, unenforceability, or provision shall not affect any remaining provisions of this ordinance.

**Section 6:** Upon adoption, the City Clerk of the City of Elko is hereby directed to have this ordinance published by title only, together with the Councilmen voting for or against its passage in a newspaper of general circulation within the time established by law, for at least one publication.

**Section 7:** This Ordinance shall be effective upon the publication mentioned in Section 4.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_, 2021 by the following vote of the Elko City Council.

AYES:

NAYS:

ABSENT:

ABSTAIN:

**APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF ELKO

BY: \_\_\_\_\_  
REECE KEENER, Mayor

ATTEST:

\_\_\_\_\_  
KELLY WOOLDRIDGE, City Clerk

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible approval of Resolution No. 18-21, a resolution providing for the transfer of appropriations between accounts within the City of Elko 2020/2021 Fiscal Budget pursuant to N.R.S. 354.598005, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 22, 2021**
3. Agenda Category: **RESOLUTION**
4. Time Required: **5 Minutes**
5. Background Information: **This is the annual year-end housekeeping item to transfer funds between functions, and funds as required to fund all budgetary changes that occurred during the fiscal year. JB**
6. Budget Information:  

**Appropriation Required:**  
**Budget amount available:**  
**Fund name:**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information:
9. Recommended Motion: **Approve Resolution No. 18-21, a Resolution providing for the transfer of appropriations between accounts within the City of Elko 2020/2021 Fiscal Budget pursuant to N.R.S. 354.598005**
10. Prepared by: **Jan Baum, Financial Services Director**
11. Committee/Other Agency Review:
12. Council Action: **At the pleasure of the Council**
13. Council Agenda Distribution:

Upon introduction and motion by Councilmember \_\_\_\_\_ and seconded by Council Member \_\_\_\_\_ the following Resolution and Order was passed and adopted:

**CITY OF ELKO**

**RESOLUTION NO. 18-21**

**A RESOLUTION PROVIDING FOR THE TRANSFER OF APPROPRIATIONS BETWEEN ACCOUNTS  
WITHIN THE CITY OF ELKO 2020/2021 FISCAL BUDGET  
PURSUANT TO N.R.S. 354.598005**

WHEREAS, THE City of Elko 2020/2021 Fiscal Year Budget has the need for transfers of Appropriations between functions and accounts.

NOW, THEREFORE BE IT RESOLVED that pursuant to N.R.S. 354.598005, the attached transfers of appropriations be accomplished:

**A detailed schedule is attached to this Resolution and by reference is made a part thereof.**

IT IS FURTHER RESOLVED, that upon adoption of this Resolution by the Elko City Council, it shall be signed by the Mayor and attested to by the City Clerk and shall be in full force and effect after its adoption.

PASSED AND ADOPTED THIS 22<sup>nd</sup> day of June, 2021.

CITY OF ELKO

By: \_\_\_\_\_  
REECE KEENER, MAYOR

ATTEST:

\_\_\_\_\_  
KELLY C. WOOLDRIDGE, CITY CLERK

**VOTE:**

**AYES:**

**NAYS:**

**ABSENT:**



**City of Elko**  
**FY 2020/2021 Fund Transfers/Augmentations**

<b><u>Fund</u></b>	<b><u>DEPARTMENT</u></b>	<b><u>DIVISION</u></b>	<b><u>A/C DETAIL</u></b>	<b><u>A/C DESCRIPTION DETAIL</u></b>	<b><u>Budget Transfer</u></b>
<b><u>General Fund</u></b>					
	City Manager	Non Division	410-10	Salaries / Wages Full Time Salaries	15,000.00
	City Manager	Non Division	580-01	Travel & Training Travel	(15,000.00)
	City Clerk	Non Division	410-10	Salaries / Wages Full Time Salaries	1,000.00
	City Clerk	Non Division	420-01	Employee Benefits Group Health Insurance	2,000.00
	City Clerk	Non Division	550-02	Printing Services Microfilm Expense	(3,000.00)
	Human Resources	Non Division	410-10	Salaries / Wages Full Time Salaries	500.00
	Human Resources	Non Division	420-01	Employee Benefits Group Health Insurance	1,500.00
	Human Resources	Non Division	540-02	Advertising Services Recruitment Expense	(2,000.00)
	Finance	Non Division	410-10	Salaries / Wages Full Time Salaries	500.00
	Finance	Non Division	420-01	Employee Benefits Group Health Insurance	7,000.00
	Finance	Non Division	432-10	Professional Auditing Services	(7,500.00)
	Central Services	Non Division	420-01	Employee Benefits Group Health Insurance	(10,000.00)
	Central Services	Non Division	520-03	Insurance Services Insurance Deductibles	10,000.00
	Planning / Zoning	Non Division	410-10	Salaries / Wages Full Time Salaries	1,500.00
	Planning / Zoning	Non Division	420-01	Employee Benefits Group Health Insurance	2,000.00
	Planning / Zoning	Non Division	434-23	Technical Other Consulting Services	(3,500.00)
	Police	Non Division	410-10	Salaries / Wages Full Time Salaries	(65,000.00)
	Police	Non Division	420-01	Employee Benefits Group Health Insurance	65,000.00
	Fire	ARFF Fire Station	410-10	Salaries / Wages Full Time Salaries	(104,000.00)
	Fire	ARFF Fire Station	431-05	Official / Administrative Services Plans Review Services	10,000.00
	Fire	Downtown Fire Station	420-10	Employee Benefits Social Security	1,000.00
	Streets	Non Division	450-02	Construction Services Hotmix AC	8,000.00
	Fleet Maintenance	Non Division	410-10	Salaries / Wages Full Time Salaries	20,000.00
	Engineering	Non Division	410-10	Salaries / Wages Full Time Salaries	3,000.00
	Engineering	Non Division	420-01	Employee Benefits Group Health Insurance	3,500.00
	Engineering	Non Division	434-12	Technical GIS Expense	(6,500.00)
	Community Development	Non Division	410-90	Salaries / Wages Part Time Salaries	(1,000.00)
	Community Development	Non Division	420-01	Employee Benefits Group Health Insurance	1,000.00
	Parks	Non Division	410-10	Salaries / Wages Full Time Salaries	30,000.00
	Parks	Non Division	420-01	Employee Benefits Group Health Insurance	35,000.00
<b><u>General Fund Total</u></b>					<b>-</b>
<b><u>Capital Equipment Fund</u></b>					
	City Clerk	Non Division	700-04	Capital Outlay Equipment	3,300.00
	Information Systems	Non Division	700-04	Capital Outlay Equipment	(13,950.00)
	Fire	Non Division	700-04	Capital Outlay Equipment	1,550.00
	Facilities	Non Division	700-04	Capital Outlay Equipment	200.00
	Parks	Non Division	700-04	Capital Outlay Equipment	8,900.00
<b><u>Capital Equipment Total</u></b>					<b>-</b>
<b><u>Facility Improvement Fund</u></b>					
	Fire	Non Division	700-03	Capital Outlay Improvements O/T Bldgs	(11,000.00)
	Fire	Non Division	700-04	Capital Outlay Equipment	11,000.00
	Facilities	Non Division	700-03	Capital Outlay Improvements O/T Bldgs	(9,000.00)
	Animal Shelter	Non Division	700-02	Capital Outlay Buildings	9,000.00
<b><u>Facility Improvement Total</u></b>					<b>-</b>
<b><u>Water Enterprise Fund</u></b>					
	Water	Administration	410-10	Salaries / Wages Full Time Salaries	(55,000.00)
	Water	Administration	420-01	Employee Benefits Group Health Insurance	(25,000.00)
	Water	Administration	610-01	General Supplies Office Supplies	(15,000.00)
	Water	Operations	410-10	Salaries / Wages Full Time Salaries	22,000.00
	Water	Operations	420-01	Employee Benefits Group Health Insurance	45,500.00
	Water	Operations	443-03	Maintenance & Repair Outside Repairs	190,500.00
	Water	Wells	410-10	Salaries / Wages Full Time Salaries	(25,000.00)
	Water	Wells	420-20	Employee Benefits Retirement Regular	(8,000.00)
	Water	Wells	434-04	Technical V O C Water Testing	(120,000.00)
	Water	Miscellaneous	900-95	Miscellaneous Depreciation Expense	40,000.00
	Water	Non Division	100-800	Fund Cash Equity in Fund Cash	(50,000.00)
<b><u>Water Enterprise Total</u></b>					<b>-</b>

**City of Elko**  
**FY 2020/2021 Fund Transfers/Augmentations**

<b><u>Fund</u></b>	<b><u>DEPARTMENT</u></b>	<b><u>DIVISION</u></b>	<b><u>A/C DETAIL</u></b>	<b><u>A/C DESCRIPTION DETAIL</u></b>	<b><u>Budget Transfer</u></b>
<b><u>Sewer Enterprise Fund</u></b>					
	Sewer	Administration	410-10	Salaries / Wages Full Time Salaries	(8,500.00)
	Sewer	Administration	434-14	Technical Computer Consulting	8,500.00
	Sewer	Operations	420-20	Employee Benefits Retirement Regular	1,000.00
	Sewer	Operations	434-23	Technical Other Consulting Services	(1,000.00)
	Sewer	Water Reclamation Facility	420-01	Employee Benefits Group Health Insurance	7,500.00
	Sewer	Water Reclamation Facility	443-13	Maintenance & Repair Pump Repair	(75,000.00)
	Sewer	Water Reclamation Facility	443-14	Maintenance & Repair Clarifier Maintenance	(10,000.00)
	Sewer	Water Reclamation Facility	443-15	Maintenance & Repair Digester Maintenance	(30,000.00)
	Sewer	Water Reclamation Facility	610-05	General Supplies Repair Supplies/Materials	(42,500.00)
	Sewer	Water Reclamation Facility	620-05	Energy WWTP Pumping	(85,000.00)
	Sewer	WRF Laboratory	410-10	Salaries / Wages Full Time Salaries	1,000.00
	Sewer	WRF Laboratory	420-01	Employee Benefits Group Health Insurance	1,500.00
	Sewer	WRF Laboratory	434-15	Technical Lab Services	(2,500.00)
	Sewer	Miscellaneous	900-95	Miscellaneous Depreciation Expense	235,000.00
<b><u>Sewer Enterprise Total</u></b>					<b>-</b>
<b><u>Landfill Enterprise Fund</u></b>					
	Solid Waste	Administration	410-10	Salaries / Wages Full Time Salaries	(5,000.00)
	Solid Waste	Administration	420-20	Employee Benefits Retirement Regular	(5,000.00)
	Solid Waste	Operations	410-10	Salaries / Wages Full Time Salaries	15,000.00
	Solid Waste	Operations	420-01	Employee Benefits Group Health Insurance	16,000.00
	Solid Waste	Operations	620-09	Energy Gasoline	(56,000.00)
	Solid Waste	Miscellaneous	900-95	Miscellaneous Depreciation Expense	35,000.00
<b><u>Landfill Enterprise Total</u></b>					<b>-</b>
<b><u>Airport Enterprise Fund</u></b>					
	Airport	Operations	420-01	Employee Benefits Group Health Insurance	9,500.00
	Airport	Operations	434-23	Technical Other Consulting Services	15,000.00
	Airport	Airport Terminal	443-03	Maintenance & Repair Outside Repairs	(10,000.00)
	Airport	Airport Terminal	443-20	Maintenance & Repair Landscaping	(25,000.00)
	Airport	Airport Terminal	610-19	General Supplies Non-Capital Equip Replacement	(13,500.00)
	Airport	Miscellaneous	900-95	Miscellaneous Depreciation Expense	6,000.00
	Airport	Miscellaneous	900-96	Miscellaneous Deprec Expense Federal Portion	18,000.00
	Airport	Non Division	100-800	Fund Cash Equity in Fund Cash	(100,000.00)
	Airport	Non Division	160-09	Capital Outlay Infrastructure	100,000.00
<b><u>Airport Enterprise Total</u></b>					<b>-</b>
<b><u>Golf Enterprise Fund</u></b>					
	Golf	Administration	434-14	Technical Computer Consulting	2,000.00
	Golf	Operations	410-10	Salaries / Wages Full Time Salaries	(70,000.00)
	Golf	Golf Management	510-22	Contract Services Golf Expenses	5,000.00
	Golf	Golf Management	510-23	Contract Services Food & Beverage Expenses	25,000.00
	Golf	Golf Management	510-24	Contract Services Golf G&A	25,000.00
	Golf	Miscellaneous	900-95	Miscellaneous Depreciation Expense	13,000.00
<b><u>Golf Enterprise Total</u></b>					<b>-</b>

**Elko City Council  
Agenda Action Sheet**

1. **Title: Review, consideration, and possible action to accept a petition for the vacation of a 13,600 square foot portion of the 15<sup>th</sup> Street Right-of-Way, filed by the City of Elko, and processed as Vacation Nos. 3-21 and 4-21, and matters related thereto. FOR POSSIBLE ACTION**
2. **Meeting Date: June 22, 2021**
3. **Agenda Category: PETITION**
4. **Time Required: 10 Minutes**
5. **Background Information: Staff has determined that keeping the small amount of Right-of-Way on 15<sup>th</sup> Street is not in the best interest of the City due to the cost of constructing and maintaining a road that goes nowhere. Staff approached both adjacent property owners about the possibility of vacating the Right-of-Way back to them, to which they agreed. Because there are utilities in the area to be vacated, an easement will need to be recorded to allow future access. In addition, a Reciprocal Easement Agreement between the property owners is also required. MR**
6. **Budget Information:**
  - Appropriation Required: N/A**
  - Budget amount available: N/A**
  - Fund name: N/A**
7. **Business Impact Statement: Not Required**
8. **Supplemental Agenda Information: Staff Memo, Exhibits, Application**
9. **Recommended Motion: Accept the petition for vacation and direct Staff to commence the vacation process by referring the matter to the Planning Commission.**
10. **Prepared by: Michele Rambo, AICP, Development Manager**
11. **Committee/Other Agency Review:**
12. **Council Action:**
13. **Agenda Distribution: Flyers Energy, LLC**
  - Attn: David Dwelle**
  - [dmdwelle@4flyers.com](mailto:dmdwelle@4flyers.com)**
  - The Igloo, Inc.**
  - Attn: Mike Shanks**
  - [shankseng@gmail.com](mailto:shankseng@gmail.com)**



City of Elko  
1751 College Avenue  
Elko, NV 89801  
(775) 777-7160  
FAX (775) 777-7119

## **CITY OF ELKO STAFF REPORT**

<b>CITY COUNCIL PETITION DATE:</b>	<b>June 22, 2021</b>
<b>PLANNING COMMISSION DATE:</b>	<b>July 6, 2021</b>
<b>APPLICATION NUMBER:</b>	<b>Vacation 3-21 and 4-21</b>
<b>APPLICANT:</b>	<b>City of Elko</b>
<b>PROJECT DESCRIPTION:</b>	<b>15<sup>th</sup> Street north of Silver Street</b>

**Vacation of a portion of 15<sup>th</sup> Street consisting of approximately 13,600 square feet.**



### **STAFF RECOMMENDATION:**

RECOMMEND to ACCEPT petition and refer the matter to the Planning Commission for further consideration.



## **PROJECT INFORMATION**

**PARCEL NUMBER:** Between APN 001-375-001 and APN 001-373-001

**EXISTING ZONING:** GI – General Industrial

**MASTER PLAN DESIGNATION:** N/A

**EXISTING LAND USE:** Undeveloped street right-of-way

### **BACKGROUND:**

1. The property is an undeveloped street right-of-way that serves only two lots (APNs 001-375-001 and 001-373-001).
2. The area proposed to be vacated is approximately 13,600 square feet to be divided equally between the two adjacent lots mentioned above.
3. The existing right-of-way stretches from Silver Street north 170 feet to the Union Pacific right-of-way and dead ends.
4. Utilities currently exist through this area so utility and drainage easements will need to be approved in conjunction with this vacation.
5. The adjacent properties have, and will continue to use, this area as a driveway. Therefore, a Reciprocal Easement Agreement will also need to be approved in conjunction with this vacation.

### **NEIGHBORHOOD CHARACTERISTICS:**

The property is surrounded by:

North: General Industrial (GI) / Undeveloped  
East: General Industrial (GI) / Undeveloped  
South: Light Industrial (LI) / Undeveloped  
West: General Industrial (GI) / Developed

### **PROPERTY CHARACTERISTICS:**

1. The property is currently undeveloped street right-of-way.
2. The property is slopes to the south towards Silver Street.

### **MASTER PLAN AND CITY CODES:**

Applicable Master Plans and City Code Sections are:

NRS 278.479 to 278.480, inclusive  
City of Elko Master Plan – Land Use Component  
City of Elko Master Plan – Transportation Component  
City of Elko Redevelopment Plan  
City of Elko Code – Section 8-7 Street Vacation Procedures

### **MASTER PLAN – Land Use:**

1. As right-of-way, 15<sup>th</sup> Street does not have a land use designation.

- 
2. The Master Plan Land Use Atlas shows the surrounding area as Industrial Business Park and Industrial General.

The proposed vacation is in conformance with the Master Plan Land Use component.

**MASTER PLAN - Transportation:**

1. 15<sup>th</sup> Street is accessed from Silver Street.
2. This section of Silver Street is classified as a Commercial/Industrial Collector street.

The proposed vacation is in conformance with the Master Plan Transportation Component.

**NRS 278.479 TO 278.480 (INCLUSIVE)**

All provisions outlined in this section of the NRS are being followed as part of the proposed vacation.

**SECTION 8-7: STREET VACATION PROCEDURES**

All procedures outlined in this section of City Code are being followed as part of the proposed vacation.

**REDEVELOPMENT PLAN**

- The area is located inside the Redevelopment Area.

**FINDINGS**

- The proposed vacation is in conformance with the City of Elko Master Plan Land Use Component
- The proposed vacation is in conformance with the City of Elko Master Plan Transportation component
- The proposed vacation is in conformance with NRS 278.479 to 278.480, inclusive.
- The proposed vacation is in conformance with City Code Section 8-7

**STAFF RECOMMENDATION:**

Staff recommends the City Council accept this petition and forward this item to the Planning Commission for further consideration.

**Exhibit A**  
**LEGAL DESCRIPTION OF 15<sup>TH</sup> STREET VACATED TO THE IGLOO**  
**(TRANSFERES TO APN: 001-375-001)**

The northeasterly half of the remaining right-of-way shown as Vanderbilt Street, between Block 7 and Block F, on the map of Ballou's Addition to the Town (now City) of Elko, Nevada, recorded in the office of the Elko County Recorder as file no. 2, lying southeasterly of the Union Pacific Railroad right-of-way and lying northwesterly of the Silver Street right-of-way, located within the northwest quarter of Section 14, Township 34 North, Range 55 East, M.D.B.&M., and is further described as follows:

Beginning at the southerly most corner of said Block F of the Ballou's Addition;

Thence, southwesterly, along right-of-way of Silver Street, 40 feet, more or less, to the centerline of Vanderbilt Street as shown on said Ballou's Addition, sometimes referred to as 15<sup>th</sup> Street today;

Thence, northwesterly along the centerline of Vanderbilt Street, 170 feet, more or less, to the southeasterly edge of the right-of-way of the Union Pacific railroad, which has been widened by approximately 50 feet to the southeast since the mapping of Railroad Street as shown on said Ballou's Addition;

Thence, northeasterly along said southeasterly boundary of the right-of-way of the Union Pacific railroad, 40 feet more or less to the southwesterly boundary of said Block F of Ballou's Addition;

Thence, southeasterly along said southwesterly boundary of the Block F of Ballou's Addition, 170 feet, more or less, to the point of beginning.

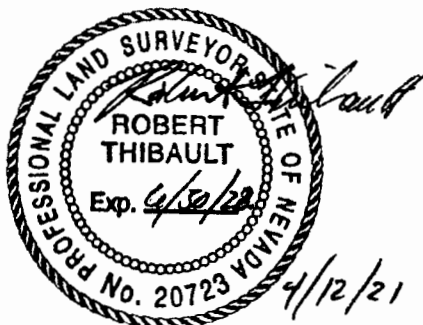
This right-of-way hereby vacated and transferred to Block F (APN: 001-375-001) contains  $\pm 6,800$  square feet.

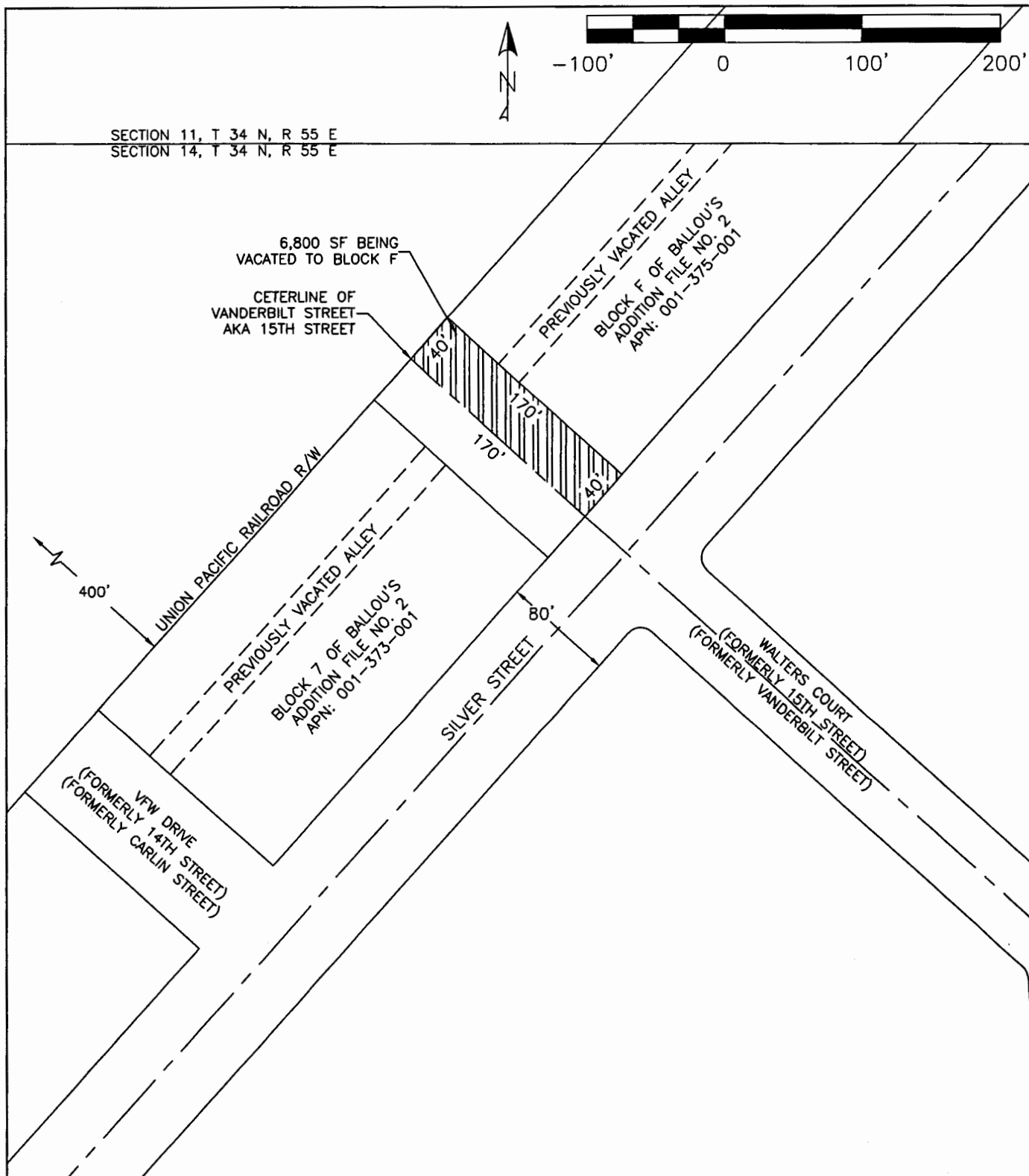
The Basis of Bearings for this description is the map of Ballou's Addition to the Town (now City) of Elko, Nevada, recorded in the office of the Elko County Recorder as file no. 2, in January of 1900.

Description prepared by:

Robert Thibault, PE, PLS

Civil Engineer for the City of Elko





CITY OF ELKO  
1751 COLLEGE AVE  
ELKO, NEVADA 89801  
775-777-7210

## EXHIBIT B

### DISPLAY MAP OF IGLOO VACATED PROPERTY



**Exhibit A**  
**LEGAL DESCRIPTION OF 15<sup>TH</sup> STREET VACATED TO FLYERS**  
**(TRANSFERES TO APN: 001-373-001)**

The southwesterly half of the remaining right-of-way shown as Vanderbilt Street, between Block 7 and Block F, on the map of Ballou's Addition to the Town (now City) of Elko, Nevada, recorded in the office of the Elko County Recorder as file no. 2, lying southeasterly of the Union Pacific Railroad right-of-way and lying northwesterly of the Silver Street right-of-way, located within the northwest quarter of Section 14, Township 34 North, Range 55 East, M.D.B.&M., and is further described as follows:

Beginning at the easterly most corner of said Block 7 of the Ballou's Addition;

Thence, northwesterly along the northeasterly boundary of said Block 7 of the Ballou's Addition, 170 feet, more or less, to the southeasterly edge of the right-of-way of the Union Pacific railroad, which has been widened by approximately 50 feet to the southeast since the mapping of Railroad Street as shown on said Ballou's Addition;

Thence, northeasterly along said southeasterly boundary of the right-of-way of the Union Pacific railroad, 40 feet more or less to the centerline of Vanderbilt Street as shown on said Ballou's Addition, sometimes referred to as 15<sup>th</sup> Street today;

Thence, southeasterly along said centerline of Vanderbilt Street, 170 feet, more or less, to the northwesterly right-of-way of Silver Street;

Thence, southwesterly, along said northwesterly right-of-way of Silver Street, 40 feet, more or less, to the point of beginning.

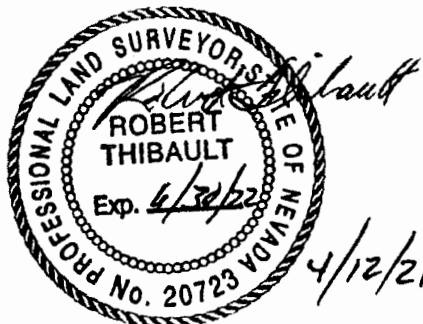
This right-of-way hereby vacated and transferred to Block 7 (APN: 001-373-001) contains  $\pm 6,800$  square feet.

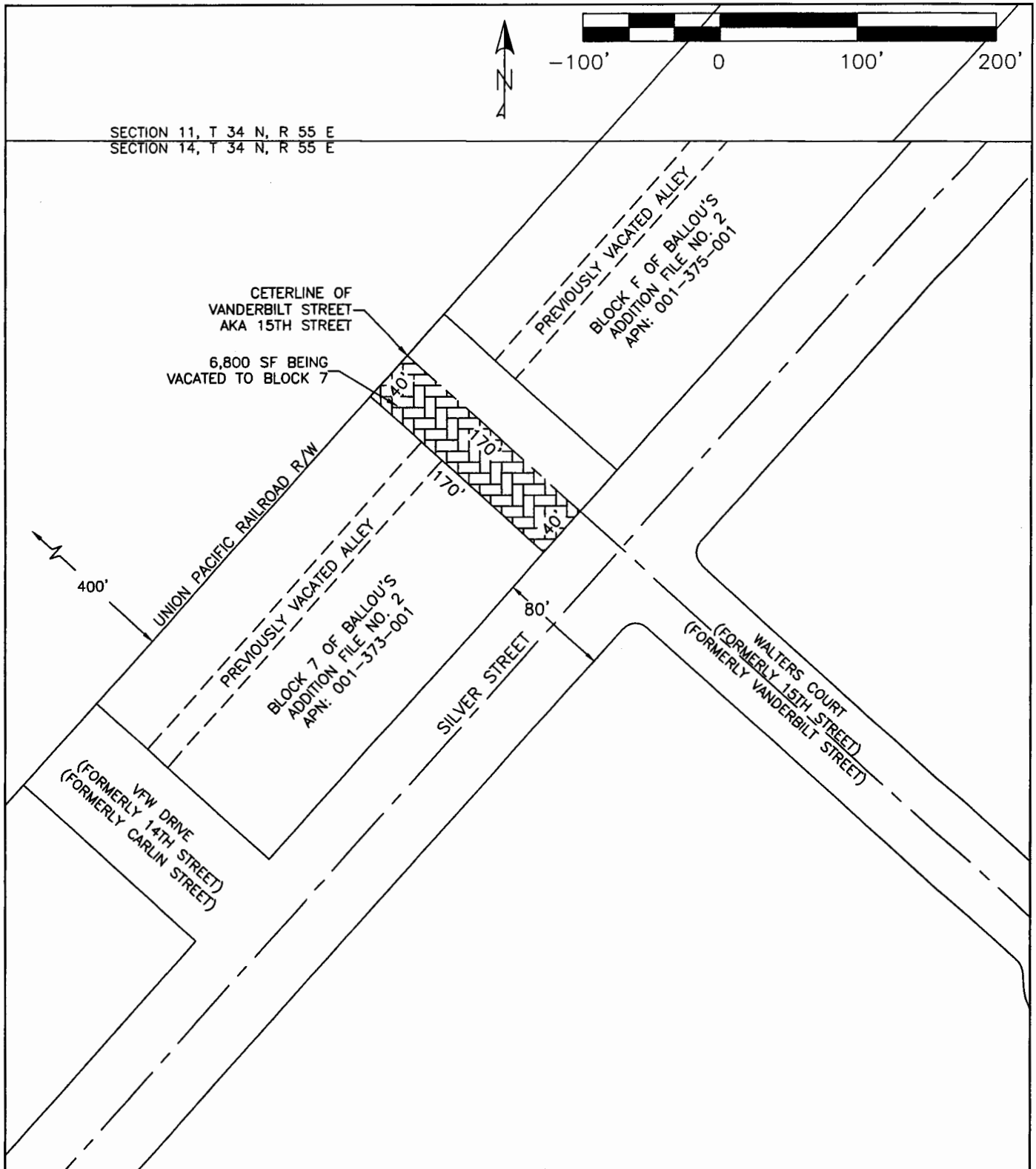
The Basis of Bearings for this description is the map of Ballou's Addition to the Town (now City) of Elko, Nevada, recorded in the office of the Elko County Recorder as file no. 2, in January of 1900.

Description prepared by:

Robert Thibault, PE, PLS

Civil Engineer for the City of Elko





CITY OF ELKO  
1751 COLLEGE AVE  
ELKO, NEVADA 89801  
775-777-7210

## EXHIBIT B

### DISPLAY MAP OF FLYERS VACATED PROPERTY

**Elko City Council  
Agenda Action Sheet**

1. Title: **Review, consideration, and possible action to vacate seven feet of the southwesterly portion of Golf Course Road for approximately 294 lineal feet northwest from the intersection of College Ave. and Golf Course Road involving 2 properties, filed by City of Elko and processed as individual Vacations 1-21 and 2-21, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 22, 2021**
3. Agenda Category: **PETITION**
4. Time Required: **10 Minutes**
5. Background Information: **In discussion with the proposed Great Basin Child Advocacy Center, staff requested that the new curb, gutter and sidewalk line up with existing infrastructure at the intersection of Cedar St. and Golf Course Rd. This vacation will align the Right-of-Way from College Ave. to Cedar Street where it currently is not aligned. CL**
6. Budget Information:  
    Appropriation Required: **N/A**  
    Budget amount available: **N/A**  
    Fund name: **N/A**
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Application, display maps, legal descriptions**
9. Recommended Motion: **Findings are that it is in the best interest of the city and that no person will be materially injured thereby, move to approve the petition for the proposed individual Vacations 1-21 through 2-21 involving 2 properties and direct Staff to commence the vacation process by referring the matter to the Planning Commission.**
10. Prepared by: **Cathy Laughlin, City Planner**
11. Committee/Other Agency Review:
12. Council Action:
13. Agenda Distribution: **Tyler Ingram**  
    **[tingram@elkocountynv.net](mailto:tingram@elkocountynv.net)**

## LEGAL DESCRIPTION FOR VACATION OF RIGHT-OF-WAY

A strip of land, being the southwesterly 7 feet of Golf Course Road, adjacent to APN 001-200-002, in the City of Elko, Nevada, lying within Sections 10 and 11, Township 34 North, Range 55 East, which is further described as follows;

Beginning at the easterly most corner of said APN 001-200-002 as described in the deed between the Church of Jesus Christ of Latter-Day Saints and the City of Elko, recorded in the office of the Elko County Recorder as file no. 221822, which bears North  $1^{\circ}18'56''$  East, a distance of 804.85 feet from the monument at the intersection of Court Street and 13<sup>th</sup> Street;

Thence, along the northeasterly boundary of the above referenced parcel, North  $48^{\circ}11'00''$  West, a distance of 264.70 feet, more or less, to the northerly most corner of the above referenced parcel;

Thence, North  $41^{\circ}49'00''$  East, a distance of 7.00 feet;

Thence, South  $48^{\circ}11'00''$  East, a distance of 257.70 feet;

Thence, along a tangent circular curve to the right, with a radius of 7.00 feet, an arc length of 11.00 feet, and a central angle of  $90^{\circ}00'00''$ , more or less, to the point of beginning.

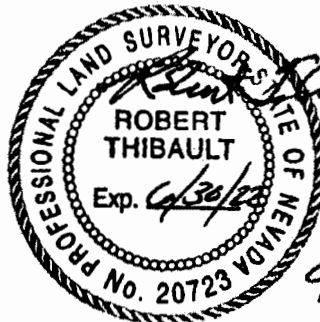
This strip of land being vacated contains a total of  $\pm 1,842$  square feet.

The Basis of bearings for this description is the Map of the Smith's Addition to the City of Elko, recorded in the office of the Elko County Recorder as file no. 43255, on November 5, 1927.

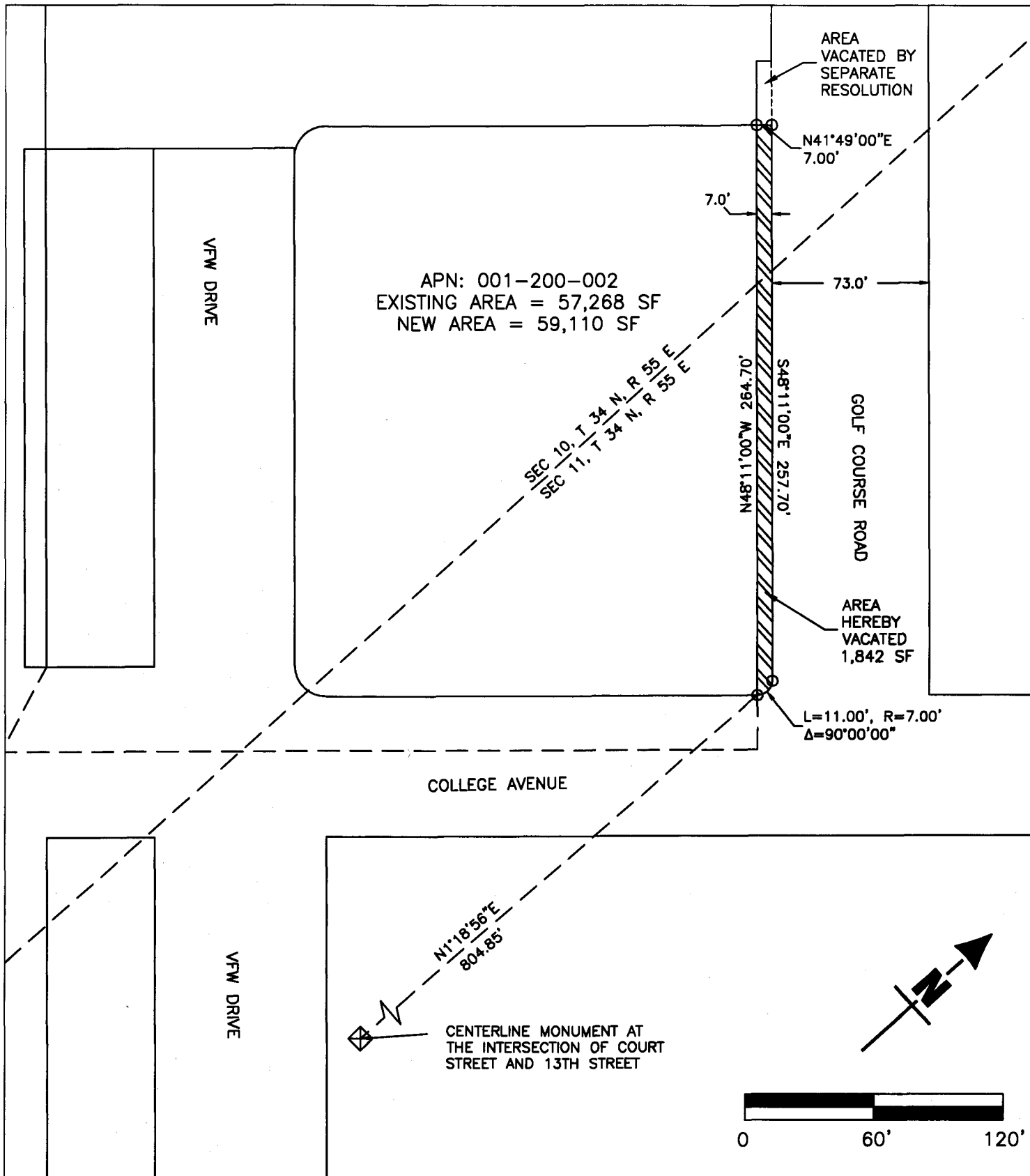
Description prepared by:

Robert Thibault, PE, PLS

Civil Engineer for the City of Elko







CITY OF ELKO  
 1751 COLLEGE AVE.  
 ELKO, NEVADA 89801  
 775-777-7210

SCALE

HORZ 1"=60'

VERT NONE

# EXHIBIT B MAP OF AREA VACATED TO APN: 001-200-002

DRAWN BY

BT

CHECKED BY

BT

DATE 6/14/21



## CITY OF ELKO PLANNING DEPARTMENT

1751 College Avenue \* Elko \* Nevada \* 89801 \*

(775) 777-7160 \* (775) 777-7219 fax

### APPLICATION FOR VACATION OF CITY STREET, EASEMENT OR OTHER PUBLIC RIGHT-OF-WAY

APPLICANT(s):	City of Elko		
MAILING ADDRESS:	1751 College Ave.		
PHONE NO (Home)	775-777-7160	(Business)	
NAME OF PROPERTY OWNER (If different):	Elko County & Nevada Health Centers Inc.		
(Property owner's consent in writing must be provided.)			
MAILING ADDRESS:			
LEGAL DESCRIPTION AND LOCATION OF PROPERTY INVOLVED (Attach if necessary):			
ASSESSOR'S PARCEL NO.:	001-200-002 & 009	Address	1401 College Ave. & 762 14th St.
Lot(s), Block(s), & Subdivision			
Or Parcel(s) & File No.			

#### FILING REQUIREMENTS:

**Complete Application Form:** In order to begin processing the application, an application form must be complete and signed. Applications go before the City Council, Planning Commission, and back to City Council twice.

**Fee:** A \$600.00 non-refundable fee.

**Plot Plan:** A plot plan provided by a properly licensed surveyor depicting the existing condition drawn to scale showing property lines, existing and proposed buildings, building setbacks, parking and loading areas, driveways and other pertinent information must be provided.

**Legal Description:** A complete legal description of the area proposed for vacation along with an exhibit depicting the area for vacation.

**Note:** One .pdf of the entire application must be submitted as well as one set of legible, reproducible plans 8 ½" x 11" in size. If the applicant feels the Commission needs to see 24" x 36" plans, 10 sets of pre-folded plans must be submitted.

**Other Information:** The applicant is encouraged to submit other information and documentation to support the request.

OWNER(S) OF THE PROPERTY ABUTTING THE AREA BEING REQUESTED FOR VACATION:

Nevada Health Centers Inc. 3325 Research Way Fl 2 Carson City, NV 89706-7913

(Name)

(Address)

OWNER(S) OF THE PROPERTY ABUTTING THE AREA BEING REQUESTED FOR VACATION:

Elko County 540 Court Street Elko, NV 89801

(Name)

(Address)

1. Describe the nature of the request: City of Elko is the applicant to apply for the vacation to allow for the development of the Great Basin Child Advocacy Center new curb, gutter and sidewalk to align with the existing on the adjacent parcel owned by Nevada Health Centers Inc. There is a small portion of the Nevada Health Centers Inc. parcel which will also require a separate resolution to vacate that excess right-of-way to their parcel.
2. Describe any utilities currently located in the area proposed for vacation, and if any are present how they will be addressed: No known utilities

Use additional pages if necessary

**This area intentionally left blank**

**By My Signature below:**

☒ I consent to having the City of Elko Staff enter on my property only for the sole purpose of inspection said property as part of this application process.

☐ I object to having the City of Elko Staff enter onto my property as a part of their review of this application. (Your objection will not effect the recommendation made by the staff or the final determination made by the City Planning Commission or the City Council.)

☒ I acknowledge that submission of this application does not imply approval of this request by the City Planning Department, the City Planning Commission and the City Council, nor does it in and of itself guarantee issuance of any other required permits and/or licenses.

☒ I acknowledge that this application may be tabled until a later meeting if either I or my designated representative or agent is not present at the meeting for which this application is scheduled.

☒ I have carefully read and completed all questions contained within this application to the best of my ability.

Applicant / Agent **City of Elko, City Planner**  
(Please print or type)

Mailing Address **1751 College Ave.**  
Street Address or P.O. Box

**Elko, NV 89801**  
City, State, Zip Code

Phone Number: **775-777-7160**

Email address: **claughlin@elkocitynv.gov**

**SIGNATURE:** \_\_\_\_\_

---

**FOR OFFICE USE ONLY**

File No.: \_\_\_\_\_ Date Filed: \_\_\_\_\_ Fee Paid: \_\_\_\_\_

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## LEGAL DESCRIPTION FOR VACATION OF RIGHT-OF-WAY

A strip of land, being a portion of the southwesterly 7 feet of Golf Course Road, adjacent to APN 001-200-009, in the City of Elko, Nevada, lying within Section 10, Township 34 North, Range 55 East, which is further described as follows;

Beginning at the easterly most corner of Parcel No. 1, of the Parcel Map for the Nevada Health Centers, Inc., recorded in the office of the Elko County Recorder as file no. 770198, which bears North 10°19'42" West, a distance of 997.28 feet from the monument at the intersection of Court Street and 13<sup>th</sup> Street;

Thence, along the northeasterly boundary of said Parcel No. 1, North 48°11'00" West, a distance of 30.00 feet;

Thence, continuing along the northeasterly boundary of said Parcel No. 1, North 41°49'00" East, a distance of 7.00 feet;

Thence, South 48°11'00" East, a distance of 30.00 feet;

Thence, South 41°49'00" West, a distance of 7.00 feet, more or less, to the point of beginning.

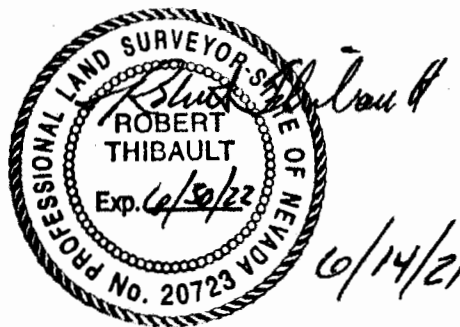
This strip of land being vacated contains a total of ±210 square feet.

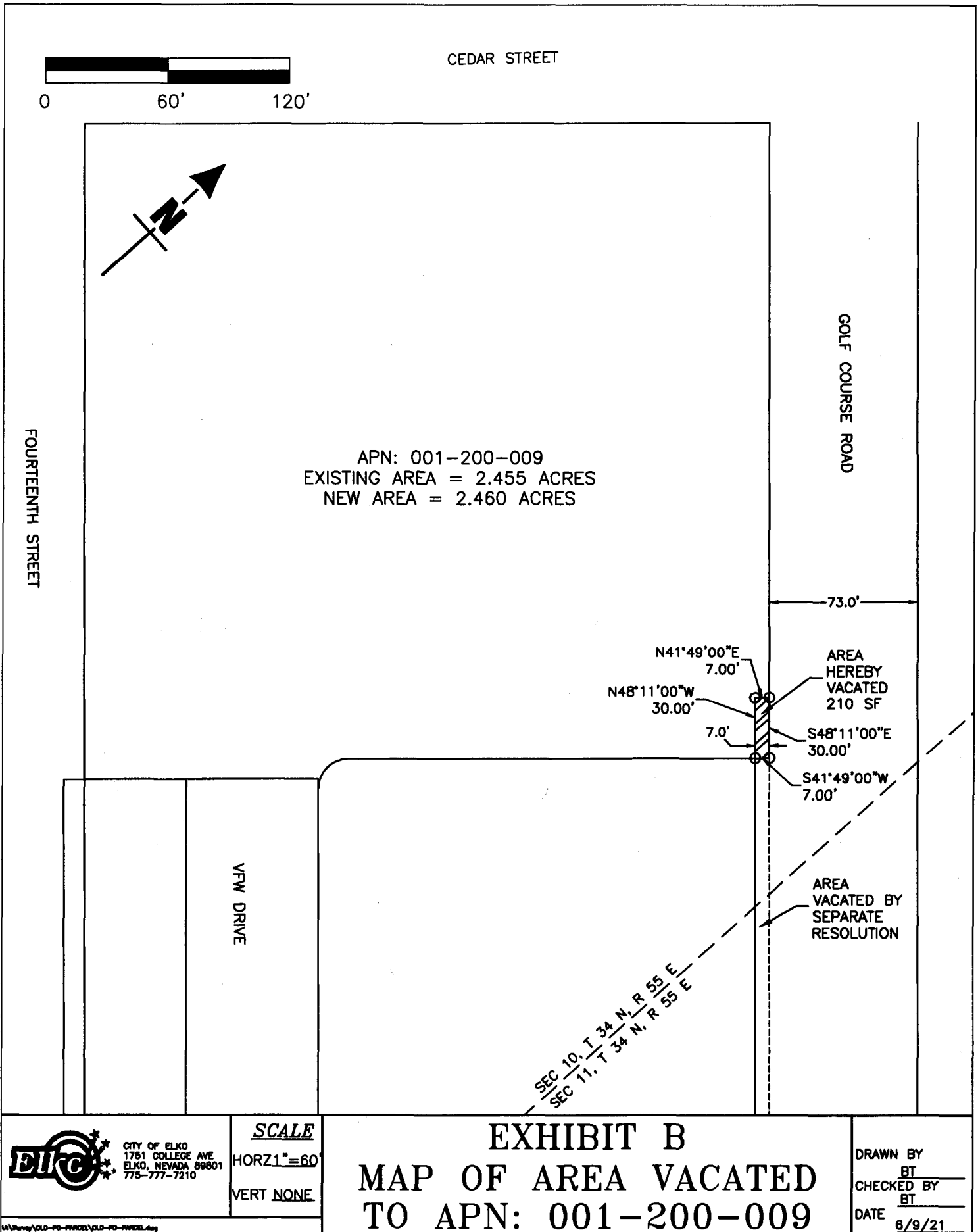
The Basis of bearings for this description is the Map of the Smith's Addition to the City of Elko, recorded in the office of the Elko County Recorder as file no. 43255, on November 5, 1927.

Description prepared by:

Robert Thibault, PE, PLS

Civil Engineer for the City of Elko





**Elko City Council  
Agenda Action Sheet**

1. Title: **Review and consideration of a request from Ms. Yvonne Samper regarding the lack of a handicap access sidewalk at 307 Elm St., and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 22, 2021**
3. Agenda Category: **PETITION**
4. Time Required: **5 Minutes**
5. Background Information: **A copy of Ms. Samper's letter has been enclosed in the agenda packet for review. CC**
6. Budget Information:  
  
    Appropriation Required:  
    Budget amount available:  
    Fund name:
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information: **Letter from Ms. Samper**
9. Recommended Motion: **Pleasure of the Council**
10. Prepared by: **Curtis Calder, City Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution: **Yvonne Samper**  
    [Yvonesamper@yahoo.com](mailto:Yvonesamper@yahoo.com)

Yvonne Samper  
307 Elm St  
Elko Nv 89801

Elko City Council  
Elko,Nv

Dear Members;

I would like to attend your next meeting . I have some questions and concerns regarding our sidewalk at our residence at 307 Elm St. We live on the corner of 3rd and Elm and are the only house on the corner that does not have a handicap access sidewalk. All three of the opposing houses have new handicap sidewalks.

I called Dennis at the street department , he was very nice and explained that your budget doesn't allow to put in a handicap sidewalk unless it warrants other work I am curious what you consider other work since I think our sidewalk is as much in need of repair as our neighbors.

When Vince Smith was with the Water Dept he told us our water main would need to be replaced in the near future maybe that would also warrant replacing our sidewalk.

I would also like to mention that we have a handicap ramp at our house due to the fact that my husband was totally paralyzed from an unknown virus for over a year and it was the only way we could transport him. He is better but still has problems and is 80 years old so I due worry about future problems .

Any consideration you could give us on this matter would be appreciated.

Thank you,

Yvonne Samper  
775 7781803  
Yvonesamper@yahoo.com



**Elko City Council  
Agenda Action Sheet**

1. Title: **Second reading and possible adoption of Ordinance No. 862, an Ordinance adopting a requirement for a Nonpublic Hospital License and Establishing a License Fee, and matters related thereto. FOR POSSIBLE ACTION**
2. Meeting Date: **June 22, 2021**
3. Agenda Category: **PUBLIC HEARING**
4. Time Required: **10 Minutes**
5. Background Information: **On April 27, 2021, the City Council voted to initiate an ordinance which would create a "Local Hospital Licensure Fee." As a result of that action, City Staff has drafted Ordinance No. 862 for review. A copy of the proposed Ordinance has been enclosed in the agenda packet for review. CC**
6. Budget Information:  

Appropriation Required:  
Budget amount available:  
Fund name:
7. Business Impact Statement: **Not Required**
8. Supplemental Agenda Information:
9. Recommended Motion: **Pleasure of the Council**
10. Prepared by: **Curtis Calder, City Manager**
11. Committee/Other Agency Review:
12. Council Action:
13. Council Agenda Distribution:

**CITY OF ELKO  
ORDINANCE NO. 862**

**AN ORDINANCE ADOPTING A REQUIREMENT FOR A NONPUBLIC  
HOSPITAL LICENSE AND ESTABLISHING A LICENSE FEE**

**WHEREAS**, Northeastern Nevada Regional Hospital (NNRH) is a nonpublic hospital that provides a substantial amount of unreimbursed care, to include inpatient treatment and services, to Medicaid patients in the City of Elko.

**WHEREAS**, the purpose of the Nonpublic Hospital License Fee established by this Ordinance is to increase the amount of funding available for reimbursement to NNRH through the Medicaid supplemental payment program.

**WHEREAS**, the Nevada Medicaid program is administered by the Nevada Department of Health and Human Services, Division of Health Care Financing & Policy (DHCFP).

**WHEREAS**, the Nevada Medicaid program is funded jointly by the federal and state governments; the federal portion, also referred to as Federal Financial Participation (FFP), is calculated on the basis of a formula specified in the Social Security Act.

**WHEREAS**, State Plan Amendment 10-002C provides the manner in which state funds may be used to fund the non-federal share of Medicaid supplemental payment program payments.

**WHEREAS**, subject to federal requirements, the DHCFP may use "broad based health care-related taxes," sometimes referred to as "provider taxes," to cover the non-federal share of Medicaid expenditures, which is then used to calculate the FFP.

**WHEREAS**, qualifying funds from public agencies, such as the City of Elko, that are paid to the DHCFP may be considered in calculating the non-federal share in claiming FFP.

**WHEREAS**, under federal law, a provider tax includes "any licensing fee, assessment, or other mandatory payment, but does not include payment of a criminal or civil fine or penalty (other than a fine or penalty imposed in lieu of or instead of a fee, assessment, or other mandatory payment);" the Nonpublic Hospital License Fee established by this Ordinance is intended to satisfy the foregoing definition of "provider tax."

**WHEREAS**, increasing the FFP will increase the total amount available for Medicaid reimbursement to NNRH; the resulting Medicaid reimbursement amount is expected to be several times greater than the Nonpublic Hospital License Fee itself.

**WHEREAS**, at the time of enactment of this Ordinance, NNRH will be the only hospital subject to the Nonpublic Hospital License Fee.

**WHEREAS**, in sum, by increasing the State of Nevada's share in claiming FFP, it is anticipated that the federal share will increase substantially, resulting in increased Medicaid reimbursement

to NNRH. Although this is not expected to compensate NNRH for the full amount of care it provides to Medicaid patients – many of whom are residents of the City – the increase in Medicaid reimbursement is expected to significantly offset this expense. The Nonpublic Hospital License Fee will therefore provide a substantial benefit to the inhabitants of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ELKO, NEVADA.**

**For amendment purposes, words which are bold and underlined are additions to the Ordinance, and words which are bold and stricken are deletions from the Ordinance.**

**SECTION 1:** Title 4, Chapter 2, entitled “Nonpublic Hospital License,” is hereby added to the Elko Municipal Code, as follows:

**4-2-1: SHORT TITLE:**

This Chapter shall be known as *NONPUBLIC HOSPITAL LICENSE*.

**4-2-2: DEFINITIONS:**

For purposes of this Chapter, the following terms shall have the meanings ascribed to them:

**CITY:** The City of Elko, Nevada.

**CITY COUNCIL:** The Elko City Council.

**NET PATIENT REVENUE:** Revenue earned by a Nonpublic Hospital for the provision of routine services to patients from sources such as Medicare, Medicaid, commercial insurance and private pay, minus contractual allowances and bad debt. The term “Net Patient Revenue” does not include pass-through income, crisis care revenue, physician billing revenue, or revenue received from community support or fundraising.

**NONPUBLIC HOSPITAL:** An institution owned by a person that is primarily engaged in providing, by or under the supervision of physicians, inpatient diagnostic and therapeutic services or rehabilitation services. Institutions that do not provide inpatient services are not “Nonpublic Hospitals” for purposes of this Chapter.

**PERSON:** Except where otherwise indicated, a natural person, any form of business or social organization and any other nongovernmental legal entity including, but not limited to, a sole proprietorship, limited liability company, corporation, partnership, association, trust or unincorporated organization. For purposes of this Chapter, the term “person” does not include a government, governmental agency or political subdivision of a government.

**4-2-3: LICENSE REQUIRED:**

It shall be unlawful for any Nonpublic Hospital, either directly or indirectly, to provide medical care or services in the City without procuring and maintaining in effect a Nonpublic Hospital License.

**4-2-4: LICENSE APPLICATION:**

Every Nonpublic Hospital required to procure a license pursuant to this Chapter shall submit an application to the City Clerk containing the following information:

- A. The name of the Nonpublic Hospital to whom the license is to be issued.
- B. The location for which the license is sought.
- C. A description of the medical care and services provided.
- D. The date when the license is proposed to become effective.
- E. The signature of a person authorized to submit the application on behalf of the Nonpublic Hospital.

**4-2-5: APPROVAL, DENIAL OF APPLICATION; ISSUANCE OF LICENSE BY CITY CLERK:**

The City Clerk is hereby authorized to approve or deny all applications for Nonpublic Hospital Licenses.

- A. Conditions for Denial: An application for a Nonpublic Hospital License shall be denied if the City Clerk determines that any one or more of the following exist(s):
  - 1. The application contains false, fraudulent or misleading material statements or information; or
  - 2. The activity for which the license is sought is unlawful under any ordinance, code, rule or law of the City, State or Federal government; or
  - 3. The applicant is indebted to the City for any unpaid license fee.
- B. Notification of Denial: Upon any denial of an application for a Nonpublic Hospital License, the City Clerk shall notify the applicant in writing and state the reason(s) for the denial. Such notification shall be delivered to the applicant personally or by mail at the address indicated on the application.
- C. Revocation: The City Clerk may revoke a Nonpublic Hospital License if the licensee violates any provision of this Chapter.



- D. Approval; Fee, Issuance: Upon approval of an application for a Nonpublic Hospital License, the City Clerk shall collect the appropriate Nonpublic Hospital License Fee required by this Chapter and issue the Nonpublic Hospital License.
- E. Appeal: Every applicant denied a Nonpublic Hospital License by the City Clerk and any licensee whose Nonpublic Hospital License has been revoked shall have the right to appeal the decision to the City Council by submitting a notice of appeal to the City Manager within thirty (30) days of the denial or revocation. The failure to timely submit a notice of appeal to the City Manager shall be deemed a waiver of the applicant's or licensee's appeal rights.

#### **4-2-6: TRANSFER OF LICENSE:**

- A. Validity: No Nonpublic Hospital License shall be valid except for the location and owner for which the original application therefor was made and the license issued.
- B. New Business Location: If a Nonpublic Hospital changes location, but does not change the ownership or character of the services provided, the Nonpublic Hospital may apply to transfer the existing Nonpublic Hospital License to the new location.
- C. New Owner: If a Nonpublic Hospital is sold or otherwise transferred to a new owner, the new owner must make application for a Nonpublic Hospital License.

#### **4-2-7: ESTABLISHMENT OF NONPUBLIC HOSPITAL LICENSE FEES:**

- A. Rates: Every Nonpublic Hospital shall pay to the City a Nonpublic Hospital License Fee in an amount determined by resolution of the City Council not to exceed six percent (6%) of the Nonpublic Hospital's Net Patient Revenue as shown on or calculated from data contained in the hospital's Medicare Cost Report submitted to the Centers for Medicare & Medicaid Services for the applicable period.
- B. Payment of Fee: The Nonpublic Hospital License Fee shall be paid following a resolution of the City Council setting the rate and payment schedule. The rate and payment schedule may be amended from time-to-time by resolution of the City Council.

#### **4-2-8: USES OF REVENUE BY CITY; LIMITATIONS:**

- A. Nonpublic Hospital License Fees shall only be used for the following purposes:
  - 1. Funding intergovernmental transfers from the City to the State of Nevada Department of Health and Human Services, Division of Health Care Financing and Policy to provide the nonfederal share of Medicaid payments for supplemental payments authorized under Medicaid State Plan Amendment 10-002C;
  - 2. Refunding Nonpublic Hospital Fees collected in error from a Nonpublic Hospital;

3. Refunding to a Nonpublic Hospital any portion of the Nonpublic Hospital Fee the City receives from the State of Nevada Department of Health and Human Services, Division of Health Care Financing and Policy that is not used to fund the nonfederal share of Medicaid supplemental payment program payments under State Plan Amendment 10-002C, or that cannot be used to fund the nonfederal share of Medicaid supplemental payment program payments under State Plan Amendment 10-002C; and
  4. Reimbursing the City for its reasonable administrative costs to perform the activities authorized under this Chapter, to include, without limitation, legal fees incurred in preparing correspondence, documents, ordinances and resolutions pertaining to this Chapter.
- B. Notwithstanding any other provision of this Section, with respect to an intergovernmental transfer of funds by the City to provide the nonfederal share of Medicaid payments for supplemental payments authorized under Medicaid State Plan Amendment 10-002C, any funds received by the City as a result of the transfer may not be used by the City to fund the nonfederal share of payments available through Medicaid programs other than those outlined in State Plan Amendment 10-002C.
- C. The City shall not collect Nonpublic Hospital License Fees for the purpose of raising general revenue nor shall the City collect any amount in excess of that which is reasonably necessary to fund the uses specifically authorized under this Chapter.

#### **4-2-9: NO CHARGE TO PATIENTS:**

A Nonpublic Hospital may not add any portion of the Nonpublic Hospital License Fee as a charge or surcharge to a patient.

**SECTION 2:** All ordinances in conflict herewith are hereby repealed, but only to the extent of such conflict.

**SECTION 3:** If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid, unenforceable or unconstitutional by any court of competent jurisdiction, the invalidity, unenforceability or unconstitutionality of such section, paragraph, clause or provision shall not affect any remaining provisions of this Ordinance.

**SECTION 4:** That upon adoption, the City Clerk of the City of Elko is hereby directed to have this Ordinance published, by title only, together with the Councilmen voting for or against its passage, in the Elko Daily Free Press, a newspaper printed and published in the City of Elko, for at least one publication.

**SECTION 5:** This Ordinance shall be effective upon the publication mentioned in Section 4.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2021 by the following vote of the Elko City Council.

VOTE:

AYES :

NAYS:

ABSENT:

ABSTAIN:

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2021.

**CITY OF ELKO**

By: \_\_\_\_\_  
**REECE KEENER, Mayor**

**ATTEST:**

\_\_\_\_\_  
**KELLY WOOLDRIDGE, City Clerk**