

ORDINANCE 17-12

(Kilgore, Jack B. Parson, Craig Thornley, and
Hyrum City Annexation)

WHEREAS, the owners of certain real property, described below, desire to annex such real property to the corporate limits of Hyrum City, Utah; and

WHEREAS, said real property is located within the area proposed for annexation and covers a majority of the private land area within the area proposed for annexation; and

WHEREAS, said real property is equal in value to at least one-third (1/3) of the value of all private real property within the area proposed for annexation; and

WHEREAS, said real property is a contiguous, unincorporated area contiguous to the boundaries of Hyrum City and the annexation thereof will not leave or create an unincorporated island or peninsula; and

WHEREAS, said property is undeveloped and covers an area that is equivalent to less than five percent (5%) of the total land mass of all private real property within Hyrum City; and

WHEREAS, said owners have caused a Petition for Annexation to be filed with the city, together with an accurate plat of the real property which was made under the supervision of a competent, licensed surveyor; and

WHEREAS, on February 16, 2017, the Hyrum City Council received the required Notice of Certification from the City Recorder certifying that the annexation petition meets the requirements of State law; and

WHEREAS, the City Council published and mailed notice of the certification as required by law; and

WHEREAS, no timely protests have been filed in accordance with the provisions of Section 10-2-407, Utah Code Annotated, 1953, as amended; and

WHEREAS, the City Council on April 20, 2017 held the required public hearing after giving notice as required by law, and has determined annexation of said property is appropriate and desirable; and

WHEREAS, the City Council adopted Ordinance 17-06 annexing such real property that included annexation agreements for each individual petitioner on May 4, 2017; and

WHEREAS, after adoption of Ordinance 17-06 Jack B. Parson Company further reviewed the annexation agreements and determined additional language was necessary in order for them to sign annexation agreement which would finalize the annexation;

WHEREAS, Ordinance 17-12 includes a revised copy of the Jack B. Parson Company annexation agreement along with a copy of the annexation agreements for the other landowners that have remained the same as Ordinance 17-06;

NOW, THEREFORE, pursuant to Section 10-2-407, Utah Code Annotated 1953, as amended, the City Council of Hyrum City, Utah, hereby adopts, passes, and publishes the following:

AN ORDINANCE AMENDING THE MUNICIPAL ZONING MAP AND ANNEXING CERTAIN REAL PROPERTY AND EXTENDING THE CORPORATE LIMITS OF HYRUM CITY, UTAH (*KILGORE, JACK B. PARSON, CRAIG THORNLEY, AND HYRUM CITY ANNEXATION*).

BE IT ORDAINED, by the City Council of Hyrum City, Cache County, State of Utah, as follows:

SECTION 1. That certain real property, more particularly described in Section 2 below is hereby annexed to Hyrum City, Utah, and the corporate limits of said city are hereby extended accordingly.

SECTION 2. That the real property which is the subject of this Ordinance is described as follows:

Part of Section 3 Township 10 North Range 1 East of the Salt Lake Meridian, located in Cache County, Utah, described as follows:

Commencing at the West Quarter corner of said Section 3; thence N 0°01'10" E 33.00 feet along the West line of said section; thence N 89°49'13" E 462.00 feet along the North line of State Road 101 to the point of beginning, said point being on the existing Hyrum City Corporate limit line; thence along said existing Hyrum City Corporate limit line the following five courses:

1. N 0°01'10" E 1722.35 feet;
2. N 89°30'45" E 852.38 feet along the South line of Parcel 01-003-0037;
3. N 0°03'12" E 358.02 feet along the East line of said parcel;
4. N 89°55'27" E 242.00 feet;
5. N 0°03'12" E 540.00 feet to the North line of said section;

Thence N 89°55'27" E 1072.88 feet along said North line to the North Quarter of said Section; thence N 89°54'28" E 128.70 feet along said North line; thence along the Easterly line of Legrand Johnson Construction Company's property the following seven courses:

1. S 0°05'10" W 726.00 feet along a line parallel with the longitudinal mid-section line of said section;
2. N 89°54'28" E 953.40 feet along a line parallel with the North line of said section;
3. S 0°05'10" W 66.00 feet;
4. N 89°54'28" E 19.80 feet;
5. S 31°17'21" E 615.83 feet to a 1/2 -inch diameter rebar;
6. S 54°42'06" E 158.57 feet to a rebar with Wayne Crow Cap;
7. S 23°09'02" E 520.29 feet to an angle point on the existing Hyrum City Corporate Limit Line;

Thence along said existing Hyrum City Corporate Limit Line the following five courses:

1. S 46°07'34" W 169.27 feet;
2. S 0°13'05" E 679.62 feet to the South line of said State Road 101;
3. S 89°49'13" W 2952.45 feet along said South line to the West sixteenth line of said section;
4. N 0°03'10" E 66.00 feet to the North line of said State Road 101;
5. S 89°49'13" W 851.36 feet along said North line to the point of beginning.

Containing 182.39 acres, more or less.

SECTION 3. That the real property described in Section 2 above shall be classified as being in the Manufacturing M-2 Zone in accordance with the provisions of Section 17.20.030 of the Hyrum City Municipal Code and the zoning map of Hyrum City shall be amended to include the real property described above.

SECTION 4. A certified copy of this ordinance, an original plat describing the property, and the annexation agreement shall be filed with the Cache County Recorder within thirty (30) days after the date this ordinance is adopted.

SECTION 5. This ordinance shall become effective upon the posting of three (3) copies in each of three (3) public places within the corporate limits of Hyrum City.

ADOPTED AND PASSED by the Hyrum City Council this 20th day of July, 2017.

HYRUM CITY

BY: _____
Stephanie Miller
Mayor

ATTEST:

Stephanie Fricke
City Recorder

Posted:

PETITION FOR ANNEXATION

TO THE MAYOR AND CITY COUNCIL OF HYRUM CITY, CACHE COUNTY, STATE OF UTAH:

We, the undersigned owners of certain real property lying contiguous to the present municipal limits of Hyrum City hereby submit this Petition for Annexation and respectfully represent the following:

1. That this petition is made pursuant to the requirements of Section 10-2-403, Utah Code Annotated, 1953, as amended (UCA);
2. That the property subject to this petition is a contiguous, unincorporated area contiguous to the boundaries of Hyrum City and the annexation thereof will not leave or create an unincorporated island or peninsula;
3. That the signatures affixed hereto are those of the owners of private real property that:
 - a. is located within the area proposed for annexation;
 - b. covers a majority of the private land area within the area proposed for annexation;
 - c. covers 100% of the private land area within the area proposed for annexation if the area is within:
 1. an agriculture protection area; or
 2. a migratory bird protection area; and
 - d. is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;
 - e. is described as follows:

PART OF SECTION 3 TOWNSHIP 10 NORTH RANGE 1 EAST OF THE SALT LAKE MERIDIAN, LOCATED IN CACHE COUNTY, UTAH, DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 3;
THENCE N0°01'10"E 33.00 FEET ALONG THE WEST LINE OF SAID SECTION;
THENCE N89°49'13"E 462.00 FEET ALONG THE NORTH LINE OF STATE ROAD 101 TO THE POINT OF BEGINNING, SAID POINT BEING ON THE EXISTING HYRUM CITY CORPORATE LIMIT LINE;
THENCE ALONG SAID EXISTING HYRUM CITY CORPORATE LIMIT LINE THE FOLLOWING FIVE COURSES:

1. N0°01'10"E 1722.35 FEET;
2. N89°30'45"E 852.38 FEET ALONG THE SOUTH LINE OF PARCEL 01-003-0037;
3. N0°03'12"E 358.02 FEET ALONG THE EAST LINE OF SAID PARCEL;
4. N89°55'27"E 242.00 FEET;

5. N0°03'12"E 540.00 FEET TO THE NORTH LINE OF SAID SECTION;
THENCE N89°55'27"E 1072.88 FEET ALONG SAID NORTH LINE TO THE NORTH
QUARTER CORNER OF SAID SECTION;
THENCE N89°54'28"E 128.70 FEET ALONG SAID NORTH LINE;
THENCE ALONG THE EASTERLY LINE OF LEGRAND JOHNSON CONSTRUCTION
COMPANY'S PROPERTY THE FOLLOWING SEVEN COURSES:
1. S0°05'10"W 726.00 FEET ALONG A LINE PARALLEL WITH THE LONGITUDINAL
MID-SECTION LINE OF SAID SECTION;
2. N89°54'28"E 953.40 FEET ALONG A LINE PARALLEL WITH THE NORTH LINE OF
SAID SECTION;
3. S0°05'10"W 66.00 FEET;
4. N89°54'28"E 19.80 FEET;
5. S31°17'21"E 615.83 FEET TO A 1/2-INCH DIAMETER REBAR;
6. S54°42'06"E 158.57 FEET TO A REBAR WITH WAYNE CROW CAP;
7. S23°09'02"E 520.29 FEET TO AN ANGLE POINT ON THE EXISTING HYRUM CITY
CORPORATE LIMIT LINE;
THENCE ALONG SAID EXISTING HYRUM CITY CORPORATE LIMIT LINE THE
FOLLOWING FIVE COURSES:
1. S46°07'34"W 169.27 FEET;
2. S0°13'05"E 679.62 FEET TO THE SOUTH LINE OF SAID STATE ROAD 101;
3. S89°49'13"W 2952.45 FEET ALONG SAID SOUTH LINE TO THE WEST SIXTEENTH
LINE OF SAID SECTION;
4. N0°03'10"E 66.00 FEET TO THE NORTH LINE OF SAID STATE ROAD 101;
5. S89°49'13"W 851.36 FEET ALONG SAID NORTH LINE TO THE POINT OF
BEGINNING.

CONTAINING 182.39 ACRES, MORE OR LESS.

4. That up to five of the signers of this petition have been designated as sponsors, one of whom is designated "contact sponsor", with the mailing address of each sponsor being indicated;

5. That this petition does not propose annexation of all or a part of an area proposed for annexation in a previously filed petition that has not been denied, rejected, or granted;

6. That this petition does not propose annexation of an area that includes some or all of an area proposed to be incorporated in a request for a feasibility study under Section 10-2-103 UCA or a petition under Section 10-2-125 UCA if:

- a. the request or petition was filed before the filing of the annexation petition; and

6. That this petition does not propose annexation of an area that includes some or all of an area proposed to be incorporated in a request for a feasibility study under Section 10-2-103 UCA or a petition under Section 10-2-125 UCA if:

- a. the request or petition was filed before the filing of the annexation petition; and
- b. the request, a petition under Section 10-2-109 based on that request, or a petition under Section 10-2-125 is still pending on the date the annexation petition is filed;

7. That the petitioners have caused an accurate plat of the above described property to be made by a competent, licensed surveyor, which plat is filed herewith; and

8. That the petitioners request the property, if annexed, be zoned Manufacturing M2.

9. That the petitioners agree to pay the City upon request and before the annexation process is completed for all expenses it has incurred due to the annexation. The petitioners understand if payment has not been made to the City by specified dates it could delay the annexation process.

WHEREFORE, the Petitioners hereby request that this petition be considered by the governing body at its next regular meeting, or as soon thereafter as possible; that a resolution be adopted as required by law accepting this Petition for Annexation for further consideration; and that the governing body take such steps as required by law to complete the annexation herein petitioned.

DATED this 10th day of January, 2017.

PLEASE LIST EACH PARCEL NUMBER, NUMBER OF ACRES IN EACH PARCEL, AND ALL OWNERS OF RECORD ON EACH PARCEL. THIS LIST MUST INCLUDE ALL OF THE ABOVE INFORMATION FOR EACH PARCEL REGARDLESS OF WHETHER SIGNATURE IS OBTAINED.

PETITIONER / CONTACT SPONSOR INFORMATION:

Parcel #: 01-003-0030, 01-003-0012, 01-003-0055
Acres: 76.15, 19.33, 48.71

Names of all current parcel owners on record: _____
Legrand Johnson Construction Company

2nd Document to
Annexation

Name: B Hall
Signature of Owner

Witness: Stewart Lamb
Signature

Name: Brian Hall
Please Print

Name: Stewart Lamb
Please Print

Telephone # 801-250-0132

Telephone #: 801-250-0132

Mailing Address: 7057 W 2100 S
Salt Lake City Utah, 84128

Stewart Lamb
Contact Sponsor

Phone Number 801-250-0132

Please Print

Please Print

Telephone # 801-250-0132

Telephone #: _____

Mailing Address: 7057 W 2100 S

West Valley City, UT 84128

Stewart Lamb
Contact Sponsor

Phone Number 801-244-7033

Parcel #4: 01-003-0035 Acres: 5.46

Names of all current parcel owners on record: _____
Craig N. Thornley

Name: Craig N. Thornley
Signature of Owner

Witness: Todd Perkins
Signature

Name: Craig N. Thornley
Please Print

Name: Todd Perkins
Please Print

Telephone # 435-245-4947
Mailing Address: 271 S 100 W
Hynum UT 84319

Telephone #: 435-245-6033

Stewart Lamb
Contact Sponsor

Phone Number 801-244-7033

Parcel #5: 01-003-0003 Acres: 3

Names of all current parcel owners on record: _____
Craig N. Thornley

Name: Craig N. Thornley
Signature of Owner

Witness: Todd Perkins
Signature

Name: Craig Thornley
Please Print

Name: Todd Perkins
Please Print

Telephone # 435-245-4947

Telephone #: 435-245-6033

Mailing Address: 271 S 100 W
Hyrum, UT 84319

Contact Sponsor _____

Phone Number _____

Parcel #6: 01-003-0023

Acres: _____

Names of all current parcel owners on record: _____
Hyrum City Corporation

Name: Stephanie Miller
Signature of Owner

Witness: _____
Signature

Name: Stephanie Miller
Please Print

Name: _____
Please Print

Telephone # _____

Telephone #: _____

Mailing Address: _____

Contact Sponsor _____

Phone Number _____

Parcel #7: 01-003-0042

Acres: 10.11

Names of all current parcel owners on record: _____
Jack B Parson Companies

Name: [Signature] Witness: [Signature]

Signature of Owner

Name: Randy Anderson
Please Print

Telephone # 801-731-1111

Mailing Address: 89 W 13490 S
Draper, UT 84020

N/A
Contact Sponsor

Phone Number _____

Signature

Name: J. Dak Maxfield
Please Print

Telephone #: 801-409-2404

Parcel #8: 01-003-0005 Acres: 14.72

Names of all current parcel owners on record: _____
Jack B Parsons Companies

Name: Randy Anderson
Signature of Owner

Name: Randy Anderson
Please Print

Telephone # 801-731-1111

Mailing Address: 89 W 13490 S
Draper, UT 84020

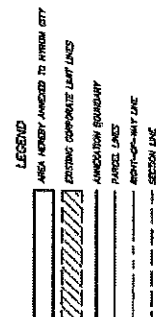
Contact Sponsor N/A

Phone Number _____

Witness: J. Dak Maxfield
Signature

Name: J. Dak Maxfield
Please Print

Telephone #: 801-409-2404



ANNEXATION AGREEMENT

This ANNEXATION AGREEMENT (this "Agreement"), entered into and effective as of July __, 2017 (the "Effective Date"), is made between Hyrum City, a Utah municipal corporation ("Hyrum") and Kilgore Companies, LLC, a Utah limited liability company ("Kilgore"). Hyrum and Kilgore are sometimes collectively referred to as the "Parties" and individually as "Party."

RECITALS

WHEREAS, Kilgore is the owner of approximately One Hundred Forty Four and nineteen/hundredth acres (144.19 Acres of real property which is composed of three separate parcels: 01-003-0030 - 79.00 acres, 01-003-0012 - 19.33 acres, and 01-003-0055 - 48.71 acres, which parcels are more particularly described hereafter (the "Property");

WHEREAS, Kilgore desires to approve and allow Hyrum to annex the Property and Hyrum desires to annex the Property and provide services and other benefits to Kilgore pursuant to the terms of this Agreement; and

WHEREAS, on January 10, 2017, Kilgore filed a petition and map pursuant to the requirements of Utah Code Annotated § 10-2-403, requesting annexation of the Property into the municipal limits of Hyrum City (the "Petition") along with property owned by Hyrum City #01-003-0023 - .44 acres, Jack B. Parson Companies #01-003-0042 - 10.11 acres, and #01-003-0005 - 14.72 acres and Craig Thornley #01-003-0035 - 5.46 acres, and 01-003-0003 - 3 acres which each individual party has it's own annexation agreement; and

NOW, THEREFORE, in consideration of the mutual covenants and promises made herein, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the above recitals, which are incorporated into and made a part of this Agreement, the Parties agree as follows:

AGREEMENT

1. **Property.** The Property of this Agreement is described as follows:

#01-003-0030 - THE E/2 OF NW/4 OF SEC 3 T 10N R 1E CONT 80 AC LESS CO ROAD ON SOUTH NET 79 AC LESS: BEG AT NW COR OF THE E/2 OF NW/4 OF SEC 3 T 10N R 1E & TH N 89*55'27" E 242.0 FT TH S 0*03'12" W 540.0 FT TH S 89*55'27" W 242.0 FT TH N 0*03'12" E 540.0 FT TO BEG CONT 3.00 AC M/B (0081) NET 76 AC M/L STATE ASSESSED 05-300-0169

#01-003-0012 - BEG NW COR SW/4 NE/4 SEC 3 T 10N R 1E (SD PT BEING N 89*56'10" W 2623.5 FT & N 0*46'23" E 1328 FT FROM SE COR OF NE/4 OF SEC 3) & TH N 0*46'23" E 1328 FT TO NW COR NE/4 TH S 89*38'05" E 128.7 FT TH S 0*46'23" W 726 FT TH S 89*29'46" E 953.40 FT TH S 0*46'23" W 66 FT TH S 89*13'37" E 19.8 FT TH S 29*44'34" E 602.17 FT TH S 54*28' E 12.16 FT TH N 89*51'40" W 1417.74 FT TO BEG CONT 19.14 AC M/B

#01-003-0055 - BEG N 89*56'10" W 990.0 FT FROM SE COR NE/4 SEC 3 T 10N R 1E & TH N 89*56'10" W 1633.47 FT TO SW COR NE/4 TH N 0*46'23" E 1328.00 FT TO NW COR OF SW/4 OF NE/4 OF SD SEC 3 TH S 89*51'40" E 1417.74 FT TH S 54*28' E 146.46 FT TH S 22*58'38" E 520.03 FT TH S 46*16'01" W 170.59 FT TH S 0*05'55" W 644.45 FT TO BEG CONT 49.64 AC

2. **Development.** Upon annexation, the Property shall become part of Hyrum and all development or improvements of any nature shall comply with the applicable ordinances, standards, regulations, procedures, and policies established by Hyrum, except as defined in Section 4 of this Agreement.

3. **Zoning.** Zoning of the Property shall be Manufacturing M2, which shall include at least a 100' height allowance and shall include such uses as concrete production, mining, and asphalt production. The effectiveness of this Agreement and the responsibilities of the parties hereunder are subject to the requirement that the Property be able to retain "green-belt" status.

4. **Site Plan.** Hyrum acknowledges that Kilgore will use the Property to mine for rock and sand, or batch concrete ready mix, and produce asphalt hot mix (the "Site Plan") and Hyrum agrees to work with Kilgore to expeditiously, and with its support, approve any conditional use permits, and any other permits, with the Hyrum Planning Commission (the "Commission"), the Hyrum City Council (the "Council") and the County. Hyrum covenants and agrees not to charge Kilgore any impact fees and connection fees for any utilities or other improvements to the Property for the

construction of the concrete plant, expansion of the asphalt plant, and the expansion or modification of the crusher.

5. **Utilities.** Once the annexation of the Property is complete, Hyrum shall bring power to the crusher from where the mainline terminated to the concrete plant. Hyrum and Kilgore will share the costs of materials 50/50. The cost of materials will include the distribution line, 480 volt 3 phase power, 2000 KVS transformer, and a distribution box. Hyrum estimated the costs to provide power to the crusher at \$28,000. Hyrum will allow power to the hot plant to continue to be provided by Rocky Mountain Power. Water to the site will already be provided by Hyrum as part of the concrete plant construction and should be installed prior to completion of the annexation. For water and power use Hyrum shall also provide any metering equipment necessary at its sole cost and expense. Kilgore will cooperate with Hyrum to allow Hyrum to comply with its requirements under this Section 5.

6. **Nibley Ground Water Protection.** Since subject property includes part of Nibley City's culinary water source protection zone, care must be exercised to protect the recharge area from potential contamination. Kilgore hereby agrees to connect rest rooms and other facilities producing domestic waste to Hyrum City's municipal wastewater collection/treatment system, as well as complete the required analysis of potential groundwater contamination from storm water runoff and spills of harmful materials associated with use of the property, including the fuel island repair facilities, equipment storage area, paved and unpaved parking lots, etc., and to take such precautions and adopt such BMP's as indicated by the study and all applicable federal, state, and local laws.

7. **Tax Benefits.** For a period beginning at the time Kilgore sells its first yard of concrete and extending for Ten (10) years, Hyrum City for its portion only of their assessed taxes shall provide a tax discount to Kilgore for sales and property tax, whereby Kilgore shall only pay Fifty Percent (50%) of the taxes normally due to Hyrum for sales and property taxes. This tax discount only applies to current uses and not future development of other uses of the property. There shall be no cap on this tax benefit in addition to the time limit provided herein.

8. **Water.** Kilgore shall not be required to deed water rights to Hyrum as part of this annexation. Kilgore shall retain their irrigation water rights for agriculture, processing, and dust suppression on the property. Even though irrigation water rights

will not be transferred to Hyrum at this time, it is understood that if and when the property becomes the subject of a development project proposal the development would need to comply with any water dedication requirements at that time.

9. **Waiver.** No failure by any Party to insist upon strict performance of any covenant, duty, agreement, or condition of this Agreement, or to exercise any right or remedy upon breach thereof, shall constitute a waiver of any breach of this Agreement.

10. **Binding Effect.** Each Party is bound by this Agreement and any person or corporation, partnership or other entity which succeeds to a Party's rights and responsibilities is also bound.

11. **Governing Law and Choice of Forum.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah. Any action to enforce or interpret this Agreement shall be brought exclusively in the federal or state courts located in Salt Lake County, Utah, and each Party irrevocably submits to the exclusive jurisdiction of such courts.

12. **Attorneys' Fees.** If any Party incurs any legal fees or costs and expenses in any proceeding to enforce the terms of this Agreement or any of its rights provided hereunder, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and any court, arbitration, mediation, or other litigation expenses from the non-prevailing Party.

13. **Construction.** The headings appearing in this Agreement have been inserted for the purposes of convenience and do not purport to and shall not be deemed to define, limit or extend the scope or intent of the provisions to which they appertain. This Agreement shall not be construed more strongly against any Party regardless of which Party is more responsible for its preparation.

14. **Entire Agreement.** This Agreement sets forth the entire and complete understanding and agreement between the Parties regarding the subject matter hereof and supersedes any and all other prior agreements or discussions, whether oral, written, electronic or otherwise, relating to the subject matter hereunder. Any additions or modifications to this Agreement must be made in writing and signed by an authorized representative of each Party. The Parties acknowledge and agree that they are not relying upon any representations or statements made by any other Party or the other Party's employees, agents, representatives or attorneys regarding this Agreement, except to the extent that such representations are expressly set forth herein.

15. **Counterparts.** This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart are upon the same instrument, and all signed counterparts shall be deemed to be an original. An electronic (pdf) or faxed copy of the signatures on this Agreement shall be effective.

IN WITNESS WHEREOF, the Parties hereto have caused this Annexation Agreement to be executed effective as of the Effective Date.

KILGORE:

HYRUM:

KILGORE COMPANIES, LLC

HYRUM CITY

By:_____

By:_____

Name:_____

Name: Stephanie Miller

Its:_____

Its: Mayor

ANNEXATION AGREEMENT

This ANNEXATION AGREEMENT (this "Agreement"), entered into and effective as of July __, 2017 (the "Effective Date"), is made between Hyrum City, a Utah municipal corporation ("Hyrum") and Kilgore Companies, LLC, a Utah limited liability company ("Kilgore"). Hyrum and Kilgore are sometimes collectively referred to as the "Parties" and individually as "Party."

RECITALS

WHEREAS, Kilgore is the owner of approximately One Hundred Forty Four and nineteen/hundredth acres (144.19 Acres of real property which is composed of three separate parcels: 01-003-0030 - 79.00 acres, 01-003-0012 - 19.33 acres, and 01-003-0055 - 48.71 acres, which parcels are more particularly described hereafter (the "Property");

WHEREAS, Kilgore desires to approve and allow Hyrum to annex the Property and Hyrum desires to annex the Property and provide services and other benefits to Kilgore pursuant to the terms of this Agreement; and

WHEREAS, on January 10, 2017, Kilgore filed a petition and map pursuant to the requirements of Utah Code Annotated § 10-2-403, requesting annexation of the Property into the municipal limits of Hyrum City (the "Petition") along with property owned by Hyrum City #01-003-0023 - .44 acres, Jack B. Parson Companies #01-003-0042 - 10.11 acres, and #01-003-0005 - 14.72 acres and Craig Thornley #01-003-0035 - 5.46 acres, and 01-003-0003 - 3 acres which each individual party has it's own annexation agreement; and

NOW, THEREFORE, in consideration of the mutual covenants and promises made herein, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the above recitals, which are incorporated into and made a part of this Agreement, the Parties agree as follows:

AGREEMENT

1. **Property.** The Property of this Agreement is described as follows:

#01-003-0030 - THE E/2 OF NW/4 OF SEC 3 T 10N R 1E CONT 80 AC LESS CO ROAD ON SOUTH NET 79 AC LESS: BEG AT NW COR OF THE E/2 OF NW/4 OF SEC 3 T 10N R 1E & TH N 89°55'27" E 242.0 FT TH S 0°03'12" W 540.0 FT TH S 89°55'27" W 242.0 FT TH N 0°03'12" E 540.0 FT TO BEG CONT 3.00 AC M/B (0081) NET 76 AC M/L STATE ASSESSED 05-300-0169

#01-003-0012 - BEG NW COR SW/4 NE/4 SEC 3 T 10N R 1E (SD PT BEING N 89°56'10" W 2623.5 FT & N 0°46'23" E 1328 FT FROM SE COR OF NE/4 OF SEC 3) & TH N 0°46'23" E 1328 FT TO NW COR NE/4 TH S 89°38'05" E 128.7 FT TH S 0°46'23" W 726 FT TH S 89°29'46" E 953.40 FT TH S 0°46'23" W 66 FT TH S 89°13'37" E 19.8 FT TH S 29°44'34" E 602.17 FT TH S 54°28' E 12.16 FT TH N 89°51'40" W 1417.74 FT TO BEG CONT 19.14 AC M/B

#01-003-0055 - BEG N 89°56'10" W 990.0 FT FROM SE COR NE/4 SEC 3 T 10N R 1E & TH N 89°56'10" W 1633.47 FT TO SW COR NE/4 TH N 0°46'23" E 1328.00 FT TO NW COR OF SW/4 OF NE/4 OF SD SEC 3 TH S 89°51'40" E 1417.74 FT TH S 54°28' E 146.46 FT TH S 22°58'38" E 520.03 FT TH S 46°16'01" W 170.59 FT TH S 0°05'55" W 644.45 FT TO BEG CONT 49.64 AC

2. **Development.** Upon annexation, the Property shall become part of Hyrum and all development or improvements of any nature shall comply with the applicable ordinances, standards, regulations, procedures, and policies established by Hyrum, except as defined in Section 4 of this Agreement.

3. **Zoning.** Zoning of the Property shall be Manufacturing M2, which shall include at least a 100' height allowance and shall include such uses as concrete production, mining, and asphalt production. The effectiveness of this Agreement and the responsibilities of the parties hereunder are subject to the requirement that the Property be able to retain "green-belt" status.

4. **Site Plan.** Hyrum acknowledges that Kilgore will use the Property to mine for rock and sand, or batch concrete ready mix, and produce asphalt hot mix (the "Site Plan") and Hyrum agrees to work with Kilgore to expeditiously, and with its support, approve any conditional use permits, and any other permits, with the Hyrum Planning Commission (the "Commission"), the Hyrum City Council (the "Council") and the County. Hyrum covenants and agrees not to charge Kilgore any impact fees and connection fees for any utilities or other improvements to the Property for the

construction of the concrete plant, expansion of the asphalt plant, and the expansion or modification of the crusher.

5. **Utilities.** Once the annexation of the Property is complete, Hyrum shall bring power to the crusher from where the mainline terminated to the concrete plant. Hyrum and Kilgore will share the costs of materials 50/50. The cost of materials will include the distribution line, 480 volt 3 phase power, 2000 KVS transformer, and a distribution box. Hyrum estimated the costs to provide power to the crusher at \$28,000. Hyrum will allow power to the hot plant to continue to be provided by Rocky Mountain Power. Water to the site will already be provided by Hyrum as part of the concrete plant construction and should be installed prior to completion of the annexation. For water and power use Hyrum shall also provide any metering equipment necessary at its sole cost and expense. Kilgore will cooperate with Hyrum to allow Hyrum to comply with its requirements under this Section 5.

6. **Nibley Ground Water Protection.** Since subject property includes part of Nibley City's culinary water source protection zone, care must be exercised to protect the recharge area from potential contamination. Kilgore hereby agrees to connect rest rooms and other facilities producing domestic waste to Hyrum City's municipal wastewater collection/treatment system, as well as complete the required analysis of potential groundwater contamination from storm water runoff and spills of harmful materials associated with use of the property, including the fuel island repair facilities, equipment storage area, paved and unpaved parking lots, etc., and to take such precautions and adopt such BMP's as indicated by the study and all applicable federal, state, and local laws.

7. **Tax Benefits.** For a period beginning at the time Kilgore sells its first yard of concrete and extending for Ten (10) years, Hyrum City for its portion only of their assessed taxes shall provide a tax discount to Kilgore for sales and property tax, whereby Kilgore shall only pay Fifty Percent (50%) of the taxes normally due to Hyrum for sales and property taxes. This tax discount only applies to current uses and not future development of other uses of the property. There shall be no cap on this tax benefit in addition to the time limit provided herein.

8. **Water.** Kilgore shall not be required to deed water rights to Hyrum as part of this annexation. Kilgore shall retain their irrigation water rights for agriculture, processing, and dust suppression on the property. Even though irrigation water rights

will not be transferred to Hyrum at this time, it is understood that if and when the property becomes the subject of a development project proposal the development would need to comply with any water dedication requirements at that time.

9. **Waiver.** No failure by any Party to insist upon strict performance of any covenant, duty, agreement, or condition of this Agreement, or to exercise any right or remedy upon breach thereof, shall constitute a waiver of any breach of this Agreement.

10. **Binding Effect.** Each Party is bound by this Agreement and any person or corporation, partnership or other entity which succeeds to a Party's rights and responsibilities is also bound.

11. **Governing Law and Choice of Forum.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah. Any action to enforce or interpret this Agreement shall be brought exclusively in the federal or state courts located in Salt Lake County, Utah, and each Party irrevocably submits to the exclusive jurisdiction of such courts.

12. **Attorneys' Fees.** If any Party incurs any legal fees or costs and expenses in any proceeding to enforce the terms of this Agreement or any of its rights provided hereunder, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and any court, arbitration, mediation, or other litigation expenses from the non-prevailing Party.

13. **Construction.** The headings appearing in this Agreement have been inserted for the purposes of convenience and do not purport to and shall not be deemed to define, limit or extend the scope or intent of the provisions to which they appertain. This Agreement shall not be construed more strongly against any Party regardless of which Party is more responsible for its preparation.

14. **Entire Agreement.** This Agreement sets forth the entire and complete understanding and agreement between the Parties regarding the subject matter hereof and supersedes any and all other prior agreements or discussions, whether oral, written, electronic or otherwise, relating to the subject matter hereunder. Any additions or modifications to this Agreement must be made in writing and signed by an authorized representative of each Party. The Parties acknowledge and agree that they are not relying upon any representations or statements made by any other Party or the other Party's employees, agents, representatives or attorneys regarding this Agreement, except to the extent that such representations are expressly set forth herein.

15. **Counterparts.** This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart are upon the same instrument, and all signed counterparts shall be deemed to be an original. An electronic (pdf) or faxed copy of the signatures on this Agreement shall be effective.

IN WITNESS WHEREOF, the Parties hereto have caused this Annexation Agreement to be executed effective as of the Effective Date.

KILGORE:

HYRUM:

KILGORE COMPANIES, LLC

HYRUM CITY

By:_____

By:_____

Name:_____

Name: Stephanie Miller

Its:_____

Its: Mayor

CRAIG THORNLEY ANNEXATION AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2017, by and between Hyrum City, a Utah municipal corporation, and Craig Thornley owner of real property that is included in petition to annex real property owned by Craig Thornley along with Kilgore Companies, Jack B. Parson Companies, and Hyrum City to annex said property (collectively referred to as "APPLICANT/DEVELOPER/LANDOWNER").

WITNESSETH:

WHEREAS, APPLICANT/DEVELOPER/LANDOWNER is the owner of eight and 46/100 (8.46) acres of real property, which property bears Cache County Tax Numbers 01-003-0035, and 01-003-0003 and is more particularly described hereafter; and

WHEREAS, on January 10, 2017, APPLICANT/DEVELOPER/LANDOWNER filed a petition and map pursuant to the requirements of Section 10-2-403, Utah Code Annotated, 1953, as amended (UCA), requesting annexation of said parcel into the municipal limits of Hyrum City along with the following property owners and parcels: 1. Hyrum City #01-003-0023 - .44 acres; 2. Jack B. Parson Companies #01-003-0042 - 10.11 acres, and #01-003-0005 - 14.72 acres; and 3. Kilgore Companies #01-003-0030 - 76.15 acres, #01-003-0012 - 19.33 acres, and #01-003-0055 - 48.71 acres; and

WHEREAS, on January 19, 2017, said petition was accepted by Resolution 17-03 of the Hyrum City Council; and

WHEREAS, on February 16, 2017, said petition and map were certified by the municipal attorney and city recorder as meeting the requirements of submission; and

WHEREAS, on April 20, 2017, after providing proper notice to the public as required by Section 10-2-407 UCA, the Hyrum City Council held a public hearing to consider annexation of said property; and

WHEREAS, the Hyrum City Council has concluded that said property is an unincorporated area contiguous to the boundaries of Hyrum City and as such qualifies under law for annexation into Hyrum City and that annexation of said property will not leave or create an unincorporated island or peninsula; and

WHEREAS, the Hyrum City Council has also determined that this annexation will not adversely impact the community and

creates an opportunity for the city to increase its tax base and provide municipal utility services to said property.

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

1. SUBJECT PROPERTY. The subject property of this annexation agreement is described as follows:

01-003-0003 - BEG 2 RDS N 40 RDS W OF SE COR OF W/2 OF NW/4 SEC 3 T 10N R 1E N 40 RDS W 12 RDS S 40 RDS E 12 RDS TO BEG 3 AC A1599B

#01-003-0035 - BEG 42 RDS N & 52 RDS W OF S/4 COR OF NW/4 OF SEC 3 T 10N R 1E & TH N 547.67 FT TH E 198 FT TH S 547.67 FT TH W 198 FT TO BEG CONT 2.49 AC ALSO BEG ON N LN OF BLACKSMITH FORKCANYON ROAD 2 RDS N & 40 RDS W OF SE COR W/2 NW/4 SD SEC 3 & TH NORTH 1207.67 FT TH E 108.21 FT TH SOUTH 1207.67 FT TH W 108.21 FT TO BEG CONT 3.0 AC CONT 5.49 AC IN ALL

2. DEVELOPMENT. Upon annexation, the subject property shall become part of Hyrum City and all development or improvements of any nature shall comply with the applicable ordinances, standards, regulations, procedures, and policies established by Hyrum City.

3. ZONING. Zoning of subject property shall be Manufacturing M-2.

4. WATER SHARES. As required by Section 16.20.070 of the Hyrum City Municipal Code, the APPLICANT/DEVELOPER/LANDOWNER agrees, upon approval and acceptance of this agreement, to provide water in the amount and under the terms and conditions established by Section 16.20.070, or submit payment in lieu thereof as allowed by law at the City's sole discretion.

Hyrum City is not requiring any water rights and/or irrigation shares to be provided to the City upon annexation. However, in the future before and upon any development of this property APPLICANT/DEVELOPER/LANDOWNER agrees to submit water rights, irrigation shares, and/or purchase water, if available, from Hyrum City. Hyrum City's current ordinance requires the APPLICANT/DEVELOPER/LANDOWNER to submit to Hyrum City 3 acre feet of water per acre of ground, however, the amount of water to be submitted at the time development will be the greater amount of either 3 acre feet of water, the amount set by City ordinance at the time of development, or an amount determined

necessary by the City Council based on projected use for a manufacturing, and/or commercial business, housing project, etc.

5. ENVIRONMENTAL CONCERNS. Said real property lies proximate to a mixture of commercial, manufacturing, and residential uses and APPLICANT/DEVELOPER/LANDOWNER should be aware of associate noises, traffic with large equipment, dust, etc. The APPLICANT/DEVELOPER/LANDOWNER hereby agrees to include a statement on the recorded plat as well as provide any other documents necessary to give actual notice to any potential buyers of these conditions and their impact on commercial areas and residential neighborhoods.

Nibley Ground Water Protection - Since subject property includes part of Nibley City's culinary water source protection zone, care must be exercised to protect the recharge area from potential contamination. APPLICANT/DEVELOPER/LANDOWNER hereby agrees to complete required analysis of potential groundwater contamination from storm water runoff and spills of harmful materials associated with use of the property, and to take such precautions and adopt such BMP's as indicated by the study and all applicable federal, state, and local laws.

6. WASTEWATER COLLECTION. The direction of wastewater flow has not been determined at this point and whether sewer service from this property relies upon development for proper sewage flow. APPLICANT/DEVELOPER/LANDOWNER will be responsible to install sewer mains connecting development on this property to the municipal collections lines at a depth and size to be specified by the City as required by Hyrum City's Construction Standards and/or Municipal Code.

7. IRRIGATION. Hyrum City reserves the right to limit the area served by the Municipal Piped Irrigation System to the amount of land that can be watered by water represented by the shares of Hyrum Irrigation Company Stock, if any; and connections to the Municipal Piped Irrigation System may be limited based upon demand, distribution, and system capacity at the time this property is developed. All other outside watering may be restricted to service provided through the municipal culinary water distribution system.

8. STORMWATER. APPLICANT/DEVELOPER/LANDOWNER of the site agrees to comply with Hyrum City's regulations governing stormwater runoff and all applicable federal, state, and local laws.

9. TRANSPORTATION. APPLICANT/DEVELOPER/LANDOWNER understands and agrees that development on this property requiring access onto Highway 101 and/or Highway 165 will need approval from the

CMPO and UDOT to change land use on a state road and gain access to it. Section 16.20.150(G) of the Hyrum City Municipal Code prohibits backyards from facing Highway 165 and Highway 101. APPLICANT/DEVELOPER/LANDOWNER understands that subdivisions must be planned so that houses face the highway.

10. UTILITY SERVICE EXTENSION AND IMPACT FEES. With respect to the development of said property, APPLICANT/DEVELOPER/LANDOWNER agrees to comply with City ordinances and regulations for extension of utility services, including payment of impact, connection, and other fees currently in effect or as amended.

11. AGREEMENT. The parties hereto acknowledge that they have both participated in the preparation of this AGREEMENT and, in the event that any question arises regarding its interpretation, no presumption shall be drawn in favor of or against any party hereto with respect to the drafting hereof.

12. GOVERNING LAW. This AGREEMENT, and all matters relating hereto, including any matter or dispute arising out of the AGREEMENT, shall be interpreted, governed, and enforced according to the laws of the State of Utah, and the parties hereto consent to the jurisdiction of any appropriate court in the State of Utah to resolve such disputes.

13. AMENDMENTS. This AGREEMENT may be amended at any time upon mutual agreement of the parties hereto, which amendment(s) must be reduced to writing and signed by all parties in order to become effective.

14. ENTIRE AGREEMENT. This AGREEMENT, and the exhibits thereto, constitute and represent the entire agreement of the parties hereto with respect to the subject matter hereof, and all other prior agreements, covenants, promises and conditions, verbal or written, between these parties are incorporated herein. No party hereto has relied upon any other promise, representation or warranty, other than those contained herein, in executing this AGREEMENT.

15. FURTHER INSTRUMENTS. The parties hereto agree that they will execute any and all other documents or legal instruments that may be necessary or required to carry out and effectuate all of the provisions hereof.

16. ASSIGNMENT. No assignment by a party hereto of any rights under or interests in the AGREEMENT will be binding on another party hereto without the written consent of the party sought to be bound. Hyrum City and APPLICANT/DEVELOPER/LANDOWNER each binds itself, its partners, successors, assigns and legal

representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in this AGREEMENT.

17. ATTORNEY FEES. The parties herein each agree that should they default in any of the covenants or agreements contained herein, the defaulting party shall pay all costs and expenses, including reasonable attorneys fees which may arise or accrue from enforcing this AGREEMENT, or in pursuing any remedy provided hereunder or by the statutes or other laws of the State of Utah, whether such costs and expenses are incurred with to without suit or before or after judgment.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the day and year first above written.

HYRUM CITY

By _____
Stephanie Miller
Mayor

Attest:

Stephanie Fricke
City Recorder

APPLICANT/DEVELOPER/LANDOWNER :

Craig Thornley

Witness:
