

BOUNDARY AND FUTURE ANNEXATION AREA AGREEMENT

THIS BOUNDARY AND FUTURE ANNEXATION AREA INTERLOCAL COOPERATION AGREEMENT (the “**Agreement**”), is made and entered into by and between NIBLEY CITY, a Utah municipality, (“**Nibley**”), and HYRUM CITY, a Utah municipality (“**Hyrum**”), collectively referred to as “**Parties**” or individually as “**Party**.”

RECITALS

- A. Pursuant to the Utah Interlocal Cooperation Act, Title 11, Chapter 13 of the Utah Code, the Parties are each authorized to enter into mutually advantageous agreements for joint or cooperative action.
- B. Each Party has adopted annexation policy plans that designate certain property outside of the Party’s boundaries as eligible for future annexation, described as expansion areas, according to the procedures set forth in Title 10, Chapter 2, Part 4 of the Utah Code.
- C. Pursuant to Utah Code § 10-2-401(6), Utah municipalities are authorized to negotiate and cooperate with each with respect to defining each municipality’s expansion area for future annexation.
- D. The Parties desire to avoid conflicts between their annexation policy plans and expansion areas and to reach a mutually beneficial understanding regarding the potential zoning, uses, and annexation of certain areas that that are adjacent to each Party.

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

- 1. **Purpose of Agreement.** The purpose of this Agreement is to establish the understanding of the Parties regarding the location and boundary of each Party’s future annexation expansion areas, as well as potential uses and zoning that may be allowed in such areas. Nothing in this Agreement shall modify or adjust the existing boundaries of either Party.
- 2. **Legislative Power.**
 - a. The Parties are municipalities and political subdivisions of the State of Utah. Each Party has authority to adopt and pursue policies that best serve the interests of their residents.
 - b. This Agreement represents the Parties’ current mutual intent and policy with respect to expansion areas and future annexation decisions and zoning decisions regarding those areas. This Agreement is intended to serve as a guide and a statement of policy that will inform future legislative decisions, but the Agreement does not limit the legislative authority of either Party.
 - c. Subject to the above, the Parties agree to pursue amendments and changes to their respective annexation policy plans, expansion areas, ordinances, and regulations to reflect the terms of this Agreement.

3. **Expansion Areas.**

- a. The Parties agree to use 4400 South as the boundary of the Parties' respective expansion areas, with 4400 South serving as the north boundary of Hyrum's expansion area and the south boundary of Nibley's expansion area, as shown in the attached **Exhibit A**.
- b. Each Party agrees to not annex nor to encourage, entertain, or accept a petition for annexation of any property that is located on the other Party's side of 4400 South without the prior written consent of the other Party.
- c. Consent shall not be unreasonably withheld if it appears to the City Council of the Party whose consent is required that the city to whom the petitioning property owner wishes to be annexed can reasonably provide services to the property without adversely affecting existing, planned, or potential public spaces and public services of the consenting Party, and the property will be developed in a manner consistent with this Agreement.
- d. Annexations that border 4400 South shall extend to the centerline of 4400 South, or as otherwise required by Cache County.

4. **Zoning and Property Use.**

- a. The Parties agree to establish compatible zoning and land use regulations for property that is adjacent to 4400 South, in order to avoid discrepancies between use types, neighborhood configurations, and undue impacts on each other's public spaces and services.
- b. The Parties agree that properties within **660 feet** of 4400 South should be zoned for **agricultural, residential, or mixed agricultural/residential/commercial uses** and have a maximum density of **eight equivalent residential units (ERU) per acre**, unless a higher density is authorized by the other Party in writing.
- c. Parks, trails, and open spaces should be provided or required as part of any development of property adjacent to 4400 South to avoid undue impact on one Party's public spaces and services, to facilitate compatible neighborhoods, and to provide interconnectivity between the cities and their residents.
- d. Industrial or manufacturing uses shall not be located within **660 feet** of 4400 South.

5. **Notice.**

- a. The Parties agree to provide notice to each other, or to the board established in Section 6, regarding any annexation petition, zone change, or land use/development application that will affect the areas and properties described herein. The notice shall be in writing and be provided at least 14 days in advance of the first public meeting or public hearing at which the matter may be considered.

- b. A Party's compliance with notice requirements established under Utah State Law shall satisfy this section if such requirements provide require notice to be specifically provided to the other Party. Publication of notice on a website or newspaper is insufficient.

6. **Administration of Agreement.**

- a. The Parties to this Agreement do not contemplate or intend to establish a separate legal entity under the terms of this Agreement. The Parties agree that this Agreement does not anticipate or provide for any organizational changes in or to the Parties.
- b. Pursuant to Utah Code § 11-13-207, the administration of this Agreement shall be by way of a joint board consisting of representatives from each Party. The number and makeup of the board shall be determined by the parties, and may be modified or changed from time or time, provided that each Party shall have equal representation. The initial board shall consist of each Party's mayor, city manager or planner, and one representative from the respective Party's City Council. The board shall not have authority to make final decisions regarding public policy or public funds, but shall function to inform, recommend, and coordinate actions and policies between the Parties pursuant to this Agreement.
- c. Unless otherwise agreed to, each Party shall keep their own respective books and records related to this Agreement in accordance with applicable laws and regulations. Each Party shall be entitled to review and inspect all books and records related to this Agreement during business hours upon request and reasonable notice.

7. **Real and Personal Property.**

- a. The Parties agree that they will not acquire, hold, or dispose of any real property pursuant to this Agreement. At all times and upon termination of this Agreement, all real property shall remain the property of the Party that acquired it.
- b. The Parties agree that they will not acquire, hold, and dispose of any personal property except as necessary to carry out the terms of this Agreement. At all times and upon termination of this Agreement, all personal property shall remain the property of the Party that acquired it.

8. **Effective Date and Term.**

- a. The Effective Date of this Agreement shall be the date all conditions of approval provided in Section 10 of this Agreement have been satisfied ("**Effective Date**").
- b. The term of this Agreement shall be from the Effective Date up through and including December 31, 2031, unless terminated or extended as set forth in Section 9.

9. **Termination.**

- a. This Agreement shall continue in effect until:

- i. The Parties mutually consent in writing to terminate the Agreement;
 - ii. Either Party elects to terminate the Agreement, with or without cause, by providing the other Party ninety (90) days' written notice; or
 - iii. The term of the Agreement expires.
- b. This Agreement may be extended by the mutual, written consent of the Parties, with or without written amendments, but in no event shall the term of this Agreement extend beyond fifty (50) years.

10. **Conditions of Approval.**

- a. This Agreement is conditioned upon each of the following:
- b. The approval and adoption of the Agreement by resolution of the legislative body of each Party in accordance with the Utah Interlocal Cooperation Act, Title 11, Chapter 13, of the Utah Code;
- c. The written approval of the authorized attorney of each Party in accordance with the Utah Interlocal Cooperation Act, Title 11, Chapter 13, of the Utah Code.

11. **Amendments.** The terms of this Agreement may not be amended, changed, modified, or altered except by an instrument in writing authorized and executed by each Party pursuant to the requirements of the Utah Interlocal Cooperation Act.

12. **Authorization and Filing.** The individuals executing this Agreement on behalf of the parties confirm that they are the duly authorized representatives of the parties and are lawfully enabled to execute this Agreement on behalf of the parties. Each Party shall be responsible for the timely submission, filing, or recording of the Agreement and any subsequent amendment or termination thereof with the appropriate governmental or regulatory offices, in the proper form and format as required by law.

13. **Governing Law, Jurisdiction, and Venue.** This Agreement and all claims or causes of action arising therefrom shall be construed and governed by and enforced in accordance with the laws of the State of Utah, including its statutes of limitation. Any dispute, claim, or cause of action regarding the interpretation or application of this Agreement shall be brought and maintained in the courts of the State of Utah, Cache County, Utah, which courts shall have jurisdiction over this Agreement and the Parties thereto.

14. **Immunity.** By entering into this Agreement, the Parties do not waive any governmental or sovereign immunity. Each Party specifically retains all immunities and defenses available to it as a sovereign or governmental entity pursuant to state and federal law, including the Utah Governmental Immunity Act. Designations of venue, choice of law, insurance and indemnification conditions, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign or governmental immunity.

IN WITNESS WHEREOF, the Parties have caused their proper and duly authorized officers to execute and deliver this Agreement.

For Nibley City

For Hyrum City

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Attest:

Attest:

Recorder: _____

Recorder: _____

Attorney Approval as to Form and
Compatibility with Law

Attorney Approval as to Form and
Compatibility with Law

Attorney: _____

Attorney: _____