

**HUNTSVILLE TOWN
ORDINANCE NO. 2024-02-13**

ANNEXATION OF PARCELS NOS. 211530001, 210260127, 210260072 and 211550001

**AN ORDINANCE OF HUNTSVILLE TOWN, UTAH, ACTING ON A
PETITION FOR ANNEXATION OF CERTAIN UNINCORPORATED
REAL PROPERTY IN ACCORDANCE WITH TITLE 10, CHAPTER 2,
PART 4, UTAH CODE ANNOTATED, 1953 AS AMENDED.**

WHEREAS, Huntsville Town (hereafter referred to as "Town") is a municipal corporation, duly organized and existing under the laws of the State of Utah;

WHEREAS, Title 10, Chapter 2, Part 4 of the *Utah Code Annotated* provides the process of annexation of unincorporated area into a municipality by a petition for the same;

WHEREAS, the Town received a Petition requesting annexation of certain real property located in an unincorporated area contiguous to the present boundaries of the Town be annexed into the Town;

WHEREAS, said Petition contains the signature of owners of private real property that is: 1) located within the Town's area proposed for annexation; 2) covers a majority of the private land areas within the area proposed for annexation; and 3) is equal in value to at least one-third (1/3) of the value of all the private real property within the area proposed for annexation;

WHEREAS, the Petition was accompanied by an accurate map, prepared by a licensed surveyor, of the area proposed for annexation;

WHEREAS, said Petition was certified by the Town Clerk in accordance with *Utah Code Annotated*, §10-2-406, 1953, as amended, and notice was duly provided of the same;

WHEREAS, the Town Council held its public hearing on the certified petition on February 13, 2024, after publication of the required notice;

WHEREAS, no timely protests have been filed and the Town Council now desires to act on said certified petition;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Huntsville Town, Weber County, State of Utah, as follows:

Section 1. Findings.

The Town Council hereby finds as follows:

1. That this Annexation Petition was duly filed with and accepted by the Town.
2. That this Annexation Petition conforms to the Annexation Policy Plan adopted by the Town.

3. That this Annexation Petition was duly certified by the Town Clerk as provided by state law.
4. That all notices have been properly posted or otherwise given.
5. That no protest has been filed in accordance with state law.
6. That the Town Council held the required Public Hearing in accordance with state law.
7. That the Town Council is the Legislative Body of the Town with authority to approve this Annexation in the form of this Ordinance and any associated documents, including the Annexation Plat.

Section 2. Annexation Approved.

In accordance with *Utah Code Annotated* §10-2-407(3)(b)(I), 1953 as amended, the area that is the subject of the Annexation Petition as provided in the Annexation Plat attached hereto as Exhibit "A" and incorporated herein by this reference, is hereby annexed as part of Huntsville Town.

Section 3. Annexation Agreement.

The Annexation Agreement attached hereto as Exhibit "B" and incorporated herein by this reference is hereby adopted to govern this annexation.

Section 4. Zoning Designation.

The property subject to the annexation in Exhibit "A" is hereby designated as the A-3 Zone as set forth in the Town's municipal code, and subject to the terms set forth in the Annexation Agreement.

Section 5. Annexation Finalization.

Staff is hereby authorized and directed to comply with the requirements of *Utah Code Annotated* §10-2-425, 1953 as amended, to finalize this annexation. The mayor is hereby authorized to execute any instruments associated with this annexation or to effectuate the same on behalf of the Town Council.

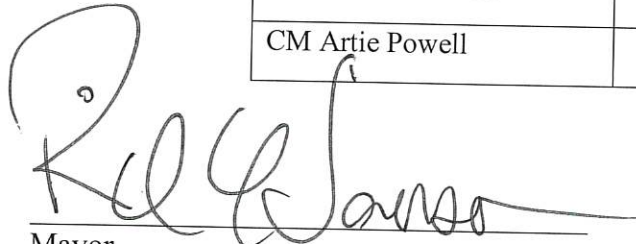
Section 6. Effective Date.

The effective date of this annexation is in accordance with the requirements established by *Utah Code Annotated* §10-2-425, 1953 as amended.

ADOPTED AND PASSED by the Town Council this 13th day of February, 2024.

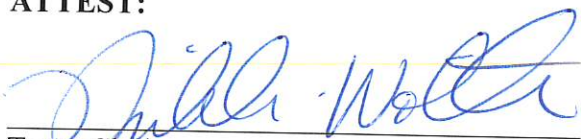
Municipal Roll Call Vote:

VOTES:	AYES	NAYS	EXCUSED	RECUSED
Mayor Richard Sorensen	X			
CM Bruce Ahlstrom	X			
CM Sandy Hunter	X			
CM Lewis Johnson	X			
CM Artie Powell		X		



Mayor

ATTEST:



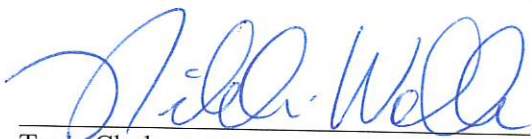
Town Clerk



RECORDED this 14 day of February, 2024.
POSTED this 22 day of February, 2024.

CERTIFICATE OF PASSAGE AND POSTING

According to the provision of U.C.A. §10-3-713, 1953 as amended, I, the Town Clerk of Huntsville Town, hereby certify that foregoing Ordinance was duly passed and published, or posted on the above-referenced dates at the following locations: 1) Town Hall 2) Huntsville Town Post Office 3) www.huntsvilletown.com 4) www.pmn.gov



Town Clerk

DATE: 02/22/2024,

EXHIBIT “A”

Annexation Plat

EXHIBIT “B”

Annexation Agreement

**BAILEY/PORTER/MOSS ANNEXATION AND
DEVELOPMENT AGREEMENT**

This ANNEXATION AND DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into as of the Effective Date (defined below), by and between Lonny and Nancy Bailey, and Laurie Porter and Sanford Moss, (the Owners) and the TOWN OF HUNTSVILLE, a municipality and political subdivision of the State of Utah (the "Town"). Town and Owners are jointly referred to as the "Parties" and each individually as a "Party."

RECITALS:

- A. Owner is the owner and developer of the real property more particularly described on **Exhibit A** (the "Property"). The Property is currently located in Unincorporated Weber County.
- B. Owner has submitted a petition to annex the Property into the Town. The petition is for Weber County Tax Parcel Nos. 21-153-0001, 21-155-0001, 21-026-0127, and 21-026-0072 (collectively, the "Annexation Property"). The Town accepted the petition on January 4, 2024. The statutorily-required hearing on the petition is scheduled for February 13, 2024 before the Town Council (defined below).
- C. Concurrently with or after the approval of this Agreement, the Annexation Property will be annexed into the Town and after the Annexation is completed, the Property will be both subject to and benefitted by this Agreement. The Annexation Property will be annexed into the Town's Agricultural Zone (A-3).
- D. The Town Council (defined below), acting pursuant to its authority under Utah Code § 10-9a-102(2) *et seq.*, as amended, and the Town Code (defined below), and in furtherance of its land use policies, goals, objectives, ordinances, resolutions, and regulations, has elected to enter into this Agreement, conditioned upon the successful completion of the Annexation. The Town Council authorizes the mayor of the Town to execute and deliver this Agreement on behalf of the Town.
- E. By this Agreement, Town and Owner confirm the Property's vested entitlements for development of the Project. The Town has determined that entering into this Agreement furthers the purposes of the Utah Municipal Land Use, Development, and Management Act, the Town's General Plan, and the Town's land use ordinances. As a result of such determination, the Town has elected to move forward with the approvals necessary to approve the development of the Project (defined below) in accordance with the terms and provisions of this Agreement. This Agreement is a "development agreement" within the meaning of and entered into pursuant to the terms of Utah Code §10-9a-102(2).

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owner and the Town hereby agree to the following:

1. **Recitals; Definitions.**

1.1. **Recitals.** The Recitals set forth above are incorporated herein by this reference.

1.2. **Defined Terms.** Unless the context requires a different meaning, any term or phrase used in this Agreement that has its first letter capitalized has the meaning given to it by this Agreement. Certain terms and phrases are referenced below; others are defined where they appear in the text of this Agreement, including the exhibits. Any capitalized term used but not otherwise defined in this Agreement shall have the meaning ascribed to such term in the Town Code.

1.2.1. "Agreement" means this Agreement including all of its exhibits.

1.2.2. "Annexation" has the meaning set forth above in Recital B.

1.2.3. "Applicable Law" has the meaning set forth in Subsection 10.1.

1.2.4. "Applicable Zoning" means the requirements of the Town's Agricultural Zone (A-3) that are in effect as of the Effective Date.

1.2.5. "Town" means the Town of Huntsville, and includes, unless otherwise provided, any and all of the Town's agencies, departments, officials, employees or agents.

1.2.6. "Town Code" means the Huntsville Town Code in effect as of Effective Date.

1.2.7. "Town Council" means the town council of the Town.

1.2.8. "Dwelling Units" means a permanent structure designed and capable of daily residential occupancy. A Dwelling Unit contains at least one kitchen and one bathroom.

1.2.9. "Effective Date" has the meaning set forth in Section 2 below.

1.2.10. "Future Law" means the laws, ordinances, policies, standards, guidelines, directives, procedures, and processing fee schedules of the Town which are in effect after the Effective Date and may or may not be applicable as provided in Section 4.2 below.

1.2.11. "Land Use Application" means an application that is required to subdivide and develop land and/or construct improvements thereon.

1.2.12. "System Improvement" means an improvement that is designed to serve areas within the community at large and which may serve the Project as a part of the community at large.

1.2.13. "Term" has the meaning set forth in Subsection 10.2 below.

2. **Effective Date.** This Agreement is effective as of [Date] (the "Effective Date").

3. **Conditions Precedent.** The Parties enter this Agreement in anticipation of the satisfaction of certain conditions precedent, which if not satisfied, will frustrate the purposes of this Agreement. Owners' obligations under this Agreement are expressly contingent upon the following (collectively, "Conditions Precedent"):

3.1. The Town Council approves, and the Mayor acknowledges, an ordinance approving the Annexation.

3.2. The Town Council approves, and the Mayor acknowledges, an ordinance approving this Agreement, and this Agreement is executed by the Town and Owners.

If the Conditions Precedent are not satisfied within thirty (30) days from the Effective Date, then Owners or Town may elect to terminate this Agreement by delivering a notice of termination to the Town and upon the Town's receipt of such notice, this Agreement shall be terminated and neither of the Parties shall have any further obligation to the other arising out of this Agreement. The Parties acknowledge that a termination would effect a withdrawal of Owners' consent and petition for Annexation.

4. **Vested Rights and Legislative Powers.**

4.1. **Vested Rights.** As of the Effective Date, Owners have the vested right to proceed with any development of the Property in accordance with this Agreement and Applicable Law. Specifically, Owners are vested with the right to: (i) subdivide, but any subdivision must adhere to the Town code at the time of subdivision, specifically the required frontage on a recognized Town or public street in the A-3 Zone; and (ii) connect to existing public infrastructure, upon the payment of generally applicable fees. The Parties specifically intend that this Agreement grants the Property "vested rights" as that term is construed in Utah's common law and pursuant to Utah Code §10-9a-509. The Parties intend that the rights granted to Owners under this Agreement are contractual and are in addition to those rights that exist under statute, common law and at equity.

4.2. **Future Laws.** The Town's Future Laws with respect to the Project or the Property shall not apply except as follows:

4.2.1. **Owner Agreement.** Future Laws that Owner agrees in writing to the application thereof to the Project;

4.2.2. **Compliance with State and Federal Laws.** Future Laws which are generally applicable to all properties in the Town and which are required to comply with State and Federal laws and regulations affecting the Project and do not effect a taking of the right to develop the uses and the densities described in this Agreement;

4.2.3. **Safety Code Updates.** Future Laws that are updates or amendments to existing building, plumbing, mechanical, electrical, dangerous buildings,

drainage, or similar construction or safety related codes, such as the International Building Code, the APWA Specifications, or by the state or federal governments and are required to meet legitimate concerns related to public health, safety or welfare;

4.2.4. Taxes. Taxes, or modifications thereto, so long as such taxes are lawfully imposed and charged uniformly by the Town to all properties, applications, persons and entities similarly situated; and

4.2.5. Fees. Changes to the amounts of fees, except for impact fees which are discussed in Section 7.3 below, for the processing of Land Use Applications that are generally applicable to all development within the Town and which are adopted pursuant to State law.

5. **Obligations**.

5.1. **Conditions of Approval**. The Town shall (a) promptly review, consider and execute all consents, submittals or other documents as may be required in connection with any Land Use Application, or other required governmental approvals; (b) promptly meet and consider such actions as required by the Utah Code and applicable Town ordinances to provide all appropriate consents, approvals and opinions as requested by Owner from time to time.

5.2. **System Improvements**. The Town shall not require Owners to construct any System Improvements or upsize any other improvements for the Project unless the Town and Owner execute a reimbursement agreement on terms acceptable to Owner.

5.3. **Impact Fees**. The Town may charge generally applicable impact fees for each Dwelling Unit constructed on the Property at the time that a building permit application is submitted for each Dwelling Unit. The amount of the impact fees that the Town may charge for each Dwelling Unit is the amount that the Town charges for impact fees as of the Effective Date. The Town shall not charge any impact fees that are not set forth in the Town's impact fee schedule effective as of the Effective Date.

6. **Integration**. This Development Agreement contains the entire Agreement with respect to the subject matter hereof and integrates all prior conversations, discussions or understandings of whatever kind or nature between the Parties and may only be modified by a subsequent writing duly executed by the Parties hereto.

7. **Severability**. If any part or provision of the Agreement shall be adjudged unconstitutional, invalid or unenforceable by a court of competent jurisdiction, then such a decision shall not affect any other part or provision of this Agreement except that specific part or provision determined to be unconstitutional, invalid or unenforceable. If any condition, covenant or other provision of this Agreement shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

8. **Notices.**

Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be (a) served personally upon the Party for whom intended, (b) sent by nationally recognized express delivery service, or (c) or if mailed, be by certified mail, return receipt requested, postage prepaid, to such Party at its address shown below. Additionally, any such notices, requests and demands may be sent by electronic mail, so long as such notice is also delivered by one of the methods describe above.

To Owners:

Lonny and Nancy Bailey
P O Box 174
Huntsville, UT 84317
Email: baileyfarm1838@gmail.com

Sanford Moss and Laurie Porter
P O Box 331
Huntsville, UT 84317
Email: sanfordmoss@yahoo.com

To the City:

Huntsville Town
7381 East 200 South
PO Box 267
Huntsville, Utah 84317
Email: clerk@huntsvilletown.com

With a copy to:

Huntsville Town
Attn: City Attorney
7381 East 200 South
Huntsville, Utah 84317

Any Party may change its address or notice by giving written notice to the other Party in accordance with the provisions of this section.

9. **Amendment.**

The Parties or their successors in interest may, by written agreement, choose to amend this Agreement at any time. Any amendment must be recorded in the Weber County Recorder's Office to be effective. An amendment to this Agreement need only be executed by Owner and the Town to be effective. The consent of an owner of the Property is not required to amend this Agreement.

10. **General Terms and Conditions.**

10.1. **Applicable Law.** This Agreement is entered into under and pursuant to and is to be construed and enforceable in accordance with the rules, regulations, official policies, standards and specifications applicable to the development of the Project in effect on the Effective Date, including the applicable Town Code, resolutions, state law, and federal law (the "Applicable Law").

10.2. **Termination of Agreement.** The term of this Agreement shall commence on the Effective Date of this Agreement and shall continue in full force and effect until twenty (20) years from the date on which this Agreement is recorded with the Weber County Recorder's Office; provided, however, that if Owners are not in breach of any material provisions of this Agreement when said 20-year period expires, and any portions of this Annexation Property have not been sub-divided, then this Agreement shall automatically be extended for an additional like period or periods, until such time as the Annexation Property may be subdivided per Town code (as applicable, the "Term").

10.3. **Run with the Land.** This Agreement shall be recorded against the Annexation Property. The agreements, benefits, burdens, rights and responsibilities contained herein shall be deemed to run with the land and shall be binding on and shall inure to the benefit of all successors in ownership of the Annexation Property, or portion thereof, as applicable, with respect to that portion of the Project owned by such successors in ownership. Nothing in this Agreement shall apply to residents or property owners who purchase or occupy developed lots or Dwelling Units within the Project, it being the intent of this Agreement that it governs the development of the Property, not the use by subsequent owners or residents.

10.4. **Default & Remedies.** If either the Owners or the Town fail to perform their respective obligations under the terms of this Agreement (as applicable, the "Defaulting Party"), the non-defaulting Party shall provide written notice to the Defaulting Party specifically identifying the claimed event of default and the applicable provisions of this Agreement claimed to be in default. The Defaulting Party shall immediately proceed to cure or remedy such default or breach within sixty (60) calendar days after receipt of such notice. The Parties shall meet and confer in an attempt to resolve the default but if they are not able to do so the Parties shall have the rights and remedies available at law and in equity, including injunctive relief or specific performance. Any delay by a Party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Article shall not operate as a waiver of such rights. If the Town elects to consider terminating this Agreement due to an uncured default by Owner, then the Town shall give to Owner written notice of Town's intent to terminate this Agreement and the matter shall be scheduled for consideration and review by Town's legislative body at a duly noticed public meeting. Owner shall have the right to offer written and oral evidence prior to or at the time of said public meeting. If Town's legislative body determines that a material uncured default has occurred and is continuing, Town may thereafter pursue the remedy of termination through an appropriate judicial proceeding.

10.5. **Non-liability of Town Officials or Employees.** No officer, representative, agent, or employee of the Town shall be personally liable to the Owner or any successor-in-interest or assignee of the Owner, in the event of any default or breach by the Town or for any amount which may become due, the Owner, or its successors or assignee, for any obligation arising out of the terms of this Agreement.

10.6. **Ethical Standards.** The Owners represents that it has not: (a) provided an illegal gift or payoff to any officer or employee of the Town, or former officer or employee of the Town, or to any relative or business entity of an officer or employee of the Town; (b) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees of bona fide commercial agencies established for the purpose of securing business; (c) breached any of the ethical standards set forth in Utah Code §§ 10-3-1301 et seq. and 67-16-3 et seq.; or (d) knowingly influenced, and hereby promises that it will not knowingly influence, any officer or employee of the Town or former officer or employee of the Town to breach any of the ethical standards set forth in State statute or Town ordinances.

10.7. **No Officer or Employee Interest.** It is agreed that no officer or employee of the Town has or shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds resulting from the performance of this Agreement. No officer, manager, employee or member of the Owner, or any member of any such persons' families shall serve on any Town board or committee or hold any such position which either by rule, practice, or action nominates, recommends, or supervises the Owner's operations, or authorizes funding or payments to the Owner. This section does not apply to elected offices.

10.8. **Performance.** Each Party, person and/or entity governed by this Agreement shall perform its respective obligations under this Agreement in a manner that will not unreasonably or materially delay, disrupt, or inconvenience any other Party, person and/or entity governed by this Agreement, the development of any portion of the Property or the issuance of final plats, certificates of occupancy, or other approvals associated therewith. This section shall not be construed to require a Party or its representatives to provide an approval contrary to Applicable Law, regulations, or this Agreement.

10.9. **Governing Law & Venue.** This Agreement and the performance hereunder shall be governed by the laws of the State of Utah. Any action taken to enforce the provisions of this Agreement shall have exclusive venue in the Second Judicial District Court of the State of Utah.

10.10. **Third Party Rights.** The Parties to this Agreement are the Owners and Town. There are no intended third-party beneficiaries of this Agreement. The Parties acknowledge that this Agreement refers to a private development and that the Town has no interest in, responsibility for, or duty to any third parties concerning any improvements to the Property.

Agreement may be necessary. The Parties agree to negotiate and act in good faith with respect to all such future items.

10.12. **Force Majeure.** Any prevention, delay or stoppage of the performance of any obligation under this Agreement which is due to strikes, labor disputes, inability to obtain labor, materials, equipment or reasonable substitutes therefore; acts of nature; governmental restrictions, regulations or controls; judicial orders; enemy or hostile government actions; wars, civil commotions; pandemics; fires or other casualties or other causes beyond the reasonable control of the Party obligated to perform hereunder shall excuse performance of the obligation by that Party for a period equal to the duration of that prevention, delay or stoppage.

10.13. **Relationship of Parties.** This Agreement does not create any joint venture, partnership, undertaking, business arrangement or fiduciary relationship between the Town and the Owners.

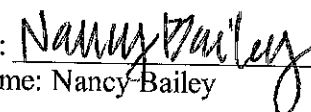
10.14. **Headings.** The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement by and through their respective duly authorized representatives as of the day and year first written above.

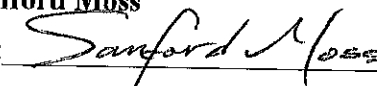
Lonny Bailey

By: 
Name: Lonny Bailey

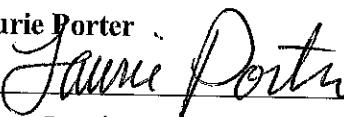
Nancy Bailey

By: 
Name: Nancy Bailey

Sanford Moss

By: 
Name: Sanford Moss

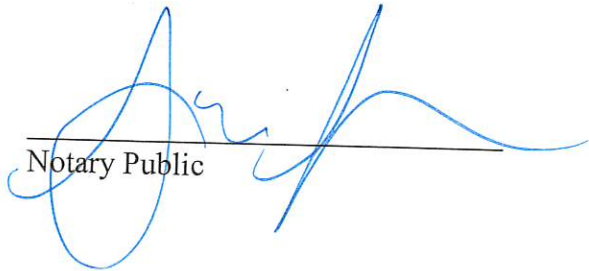
Laurie Porter

By: 
Name: Laurie Porter

STATE OF UTAH)
) : ss.
COUNTY OF SALT LAKE)

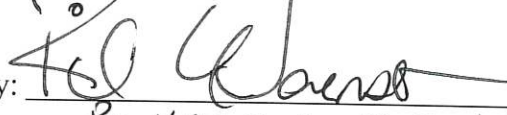
On this 10th day of February, 2024, personally appeared before me Lonny Bailey, Nancy Bailey, Sanford Moss, and Laurie Porter, whose identities are personally known to me, or proven on the basis of satisfactory evidence, to be the persons who executed the Agreement on behalf of the Owners and who duly acknowledged to me that he/she executed the same for the purposes therein stated.



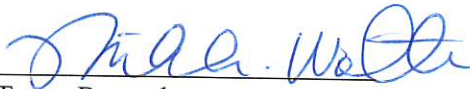


Notary Public

TOWN OF HUNTSVILLE, a municipality and political subdivision of the State of Utah

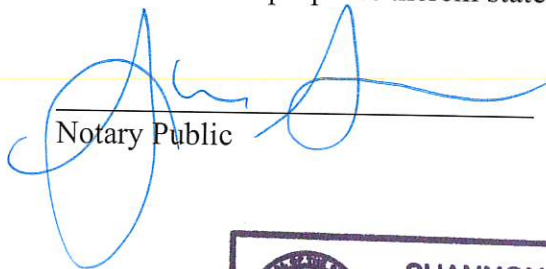
By: 
Name: RICHARD L SORENSEN
Its: MAYOR

Attest:

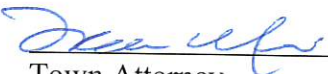

Town Recorder

STATE OF UTAH)
: ss.
COUNTY OF SALT LAKE)

On this 21st day of February, 2024, personally appeared before me Richard Sorensen, the authorized signer the Town of Huntsville, whose identity is personally known to me, to be the person who executed the Agreement on behalf of the Town of Huntsville, and who duly acknowledged to me that he executed the same for the purposes therein stated.


Notary Public

Approved as to Form:


Town Attorney



