

ANNEXATION AGREEMENT
AND
COVENANTS RUNNING WITH THE LAND
(Crook Annexation)

THIS AGREEMENT is entered into this 19 day of October, 2006, by and between Heber City (hereafter "Heber City" or the "City"), The Boyer Company, L.C., a Utah limited liability company, or assigns (hereafter "Boyer"), Crook Family Trust (hereafter "Crook"), Evan and Carolyn Sweat (hereafter "Sweat"), Redmond Investment Properties, L.C., a Utah limited liability company (hereafter "Redmond"), John and Susan Crook (hereinafter "JS Crook"), and Jason and Janette Sweat (hereinafter "JJ Sweat"). Crook, JS Crook, JJ Sweat and Sweat, together with Redmond are all hereinafter sometimes collectively referred to as "Landowners" and where no distinction is required by the context, individually as a "Landowner".

WHEREAS, each Landowner owns certain real property described in Exhibit A (hereafter collectively "Landowners' Property"), and

WHEREAS, each Landowner has each entered into an agreement with Boyer to sell their property to Boyer for the purpose of development, and

WHEREAS, the Landowners and Boyer desire City services, and that Heber City annex the Landowners' Property into the City under its BMP Business and Manufacturing Park and C-2 Commercial Zoning, and

WHEREAS, the City is willing to so annex and to provide City services at City rates upon certain conditions and subject to certain covenants,

NOW, THEREFORE, the Parties hereby agree as follows:

1. Heber City shall annex the Landowners' Property into the City, consistent with the City's Future Land Use Plan. More specifically, the Redmond property will be zoned BMP Business and Manufacturing Park, and the Crook, Sweat, JS Crook and JJ Sweat properties will be zoned C-2 Commercial.
2. Landowners acknowledge, understand and agree that unless Boyer undertakes the Landowners' obligations under this Agreement, through purchase of the Landowners' property or otherwise, that any Landowner desiring on its own accord to

develop any of its property annexed under this Agreement shall, as a condition to the development of such property, cooperate fully with Heber City and shall:

a. Verify the capacity of the secondary irrigation lines in such development area with the irrigation company and bear the costs of upgrading the facilities if needed.

b. Provide for sufficient storage capacity for storm water retention or detention and storm drain piping per City Standards and Master Plan for the property.

c. Transfer to the City adequate water shares or water rights to service any portion of the property to be developed prior to the time of Final Plat recordation and the Landowner shall grant the City a "first right of refusal" to purchase any remaining water shares after development of the property.

d. Provide verification to Heber City that the sewer capacity is sufficient for the needs and impact of development, and provide and install any required over-sizing or extension of offsite sewer mains.

e. Connect to the source of existing City Utility services at Landowners' expense.

f. Transfer additional water shares or water rights necessary to meet any additional demands upon City utilities prior to final approval of any said modification or development of the property.

2.1 **Crook acknowledges**, understands and agrees that unless Boyer undertakes Crook's obligations under this Agreement, through purchase of Crook's property or otherwise, that if Crook desires on its own accord to develop its property annexed under this Agreement that Crook shall, as a condition to the development of such property, cooperate fully with Heber City and shall:

a. On such center line as Heber City may in its sole discretion direct, dedicate and construct 300 West according to the 66 foot right of way collector street standard, from the southern boundary of the Redmond property annexed under this Agreement to the southern boundary of the Crook property annexed under this Agreement.

b. Dedicate land to accommodate the construction, if necessary, of acceleration and deceleration lanes along Highway 189 for the 300 West-Highway 189 intersection, and acceleration

and deceleration lanes along Highway 189 to accommodate Crook's private driveway approaches along highway 189.

c. Dedicate a 20' right-of-way to Heber City running parallel and fronting Highway 189 for a sewer easement if Heber City is unable to attain said easement from UDOT.

2.2 **JS Crook acknowledge**, understand and agree that unless Boyer undertakes JS Crook's obligations under this Agreement, through purchase of JS Crook's property or otherwise, that if JS Crook desire on their own accord to develop their property annexed under this Agreement that JS Crook shall, as a condition to the development of such property, cooperate fully with Heber City and shall:

a. Dedicate land to accommodate the construction, if necessary, of acceleration and deceleration lanes along Highway 189 for the 300 West-Highway 189 intersection, and acceleration and deceleration lanes along Highway 189 to accommodate Crook's private driveway approaches along highway 189.

b. Dedicate a 20' right-of-way to Heber City running parallel and fronting Highway 189 for a sewer easement if Heber City is unable to attain said easement from UDOT.

2.3 **Sweat acknowledges**, understands and agrees that unless Boyer undertakes Sweat's obligations under this Agreement, through purchase of Sweat's property or otherwise, that if Sweat, desires on its own accord to develop its property annexed under this Agreement that Sweat shall, as a condition to the development of such property, cooperate fully with Heber City and shall:

a. On such center line as Heber City may in its sole discretion direct, dedicate and construct 300 West according to the 66 foot right of way collector street standard, from the southern boundary of the Crook property annexed under this Agreement to the southern boundary of the Sweat property annexed under this Agreement.

b. Dedicate land to accommodate the construction, if necessary, of acceleration and deceleration lanes along Highway 189 for the 300 West-Highway 189 intersection, and acceleration and deceleration lanes along Highway 189 to accommodate Sweat's private driveway approaches along highway 189.

c. Dedicate a 20' right-of-way to Heber City running parallel and fronting Highway 189 for a sewer easement if Heber City is unable to attain said easement from UDOT.

2.4 **Redmond acknowledges**, understands and agrees that unless Boyer undertakes Redmond's obligations under this Agreement, through purchase of Redmond's property or otherwise, that if Redmond, desires on its own accord to develop its property annexed under this Agreement that Redmond shall, as a condition to the development of such property, cooperate fully with Heber City and shall:

a. Dedicate and construct 300 West according to the 66 foot right of way collector street standard, from the current dead end point at approximately 1000 South to the southern boundary of the Redmond property annexed under this Agreement.

3. Landowners acknowledge and agree that no development of their lands shall occur or be allowed by the City unless and until the following occurs:

a. The construction of a 16 inch waterline in Mill Road is completed.

4. **Landowners also acknowledge** and agree to the following:

a. A connection to the waterline in 1200 South, and a connection of the 1200 South waterline to the 16 inch Mill Road waterline, to obtain adequate fire flows may also be required prior to development of the Landowners' property, if the City, in its sole discretion, deems it in the best interest of the City to do so.

b. Development of Landowners' property shall accommodate the existing storm flood channel, drain pipe, and storm ditch running through the property from Main Street to Industrial Parkway.

c. Development of the Landowners' Property is subject to any applicable reimbursement agreements associated with Landowners' properties, or any agreement to which any Landowner or Landowners are participants.

5. Landowners agree to cooperate with Heber City in whatever manner they are able to insure that the terms, items conditions or requirements contained herein are accomplished and occur.

6. Pursuant to the considerations set forth herein, **Boyer stipulates** that in the event Boyer purchases the Landowners' Property that Boyer shall undertake Landowners' obligations under this Agreement. Boyer further agrees that upon Boyer's development of any of the property annexed under or in connection

with this Agreement that Boyer shall also perform, agree and cooperate fully in conjunction with the following:

- a. Construct at Heber City's choice one of the following:
 1. 1200 South; a 72 foot right of way arterial street, connecting from Industrial Parkway to the future 300 West; or
 2. 1300 South Truck Bypass Spur; an 84 foot right of way connecting from Industrial Parkway to the future 300 West.
- b. Construct, and dedicate land to accommodate the construction if necessary, of acceleration and deceleration lanes along Highway 189 for the 300 West-Highway 189 intersection, and acceleration and deceleration lanes along Highway 189 to accommodate private driveway approaches along Highway 189.
- c. Improve Highway 189 to the full UDOT highway standard along property-street frontage, including asphalt, curb, and sidewalk.
- d. Conduct a traffic study to identify the impacts of the Boyer's proposed development on surrounding streets and intersections. Boyer shall mitigate traffic impacts of the development as identified in the traffic study.
- e. Construct and dedicate a portion of 1000 South from Main Street to 300 West pursuant to the 66 foot right of way collector standard, including upgrading the existing 1000 South to meet the current collector standard.
- f. Upon the event that Boyer acquires and develops property to the west fronting Industrial Parkway, 1000 South shall be constructed and dedicated by Boyer to continue from 300 West to Industrial Parkway pursuant to the 66 foot right of way collector standard.
- g. Pay its proportionate share of costs to install a Pressure Reducing Valve (PRV) on the waterline at 1200 South 600 East, if needed.
- h. Pay its proportionate share of costs to install a PRV on the waterline at Industrial Parkway and Highway 189 intersection, if needed.
- i. Construct a 30 inch sewer line connecting to the

sewer line in 1200 South, running from the Highway 189/ Highway 40 Intersection and connecting to the 30 inch sewerline in Industrial Parkway. Heber City shall participate in the costs of oversizing the sewer line above 10 inches.

j. Utilize the property between Bronson Estates subdivision and 1000 South as a landscaped buffer for the subdivision and possible storm water retention/detention basin.

k. Participate in their proportionate share of costs for installing a stop light at the 300 West-Highway 189 Intersection.

7. Boyer also acknowledges and agrees to the following:

a. That the connection of that waterline to the waterline in 1200 South, and the connection of the 1200 South and Mill Road 16 inch waterline, to obtain adequate fire flows may be required prior to development of the property, if the City, in its sole discretion, deems it in the best interest of the City to do so.

b. Development of the Property shall accommodate the existing storm flood channel, drain pipe, and storm ditch running through the property from Main Street to Industrial Parkway.

c. Development of the Property is subject to any applicable reimbursement agreements associated with developing properties, or any agreements to which any Landowner, Landowners' or Boyer are participants.

8. Boyer agrees to cooperate in whatever manner it is able to insure that the terms, items conditions or requirements contained herein are accomplished and occur.

9. This Agreement shall be a covenant running with the land, and shall be binding upon the Parties and their assigns and successors in interest.

10. In the event there is a Failure to Perform under this Agreement and it becomes reasonably necessary for any party to employ the services of an attorney in connection therewith (whether such attorney be in-house or outside counsel), either with or without litigation, on appeal or otherwise, the losing party to the controversy shall pay to the successful party reasonable attorney's fees incurred by such party and, in addition, such costs and expenses as are incurred in enforcing this Agreement.

11. Time is of the essence of this Agreement. In case any

Redmond Investment Properties, L.C.
A Utah limited liability company

By: [Signature]

Name: JASON HADDOCK

Title: MANAGER

John and Susan Crook

John Crook, an individual

Susan Crook, an individual

Jason and Janette Sweat

Jason Sweat, an individual

Janette Sweat, an individual

The Boyer Company, L.C.
A Utah limited liability company

By: [Signature]

Name: STEVEN B. OSHER

Title: manager

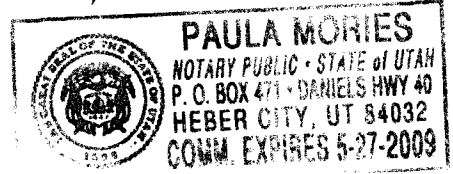
STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

On this 1 day of Nov, 2006,

personally appeared before me Phyllis Crook,
representing the above-named Landowner, Crook Family Trust, who
duly acknowledged to me that he is the owner in fee, or duly
appointed representative, and executed the same as such.

Paula Mories
NOTARY PUBLIC

STATE OF UTAH)
: ss.
COUNTY OF WASATCH)



On this _____ day of _____, 2006,
personally appeared before me _____,
representing the above-named Landowner, Evan and Carolyn Sweat,
who duly acknowledged to me that he is the owner in fee, or duly
appointed representative, and executed the same as such.

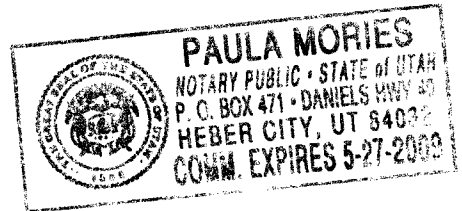
NOTARY PUBLIC

STATE OF UTAH)
: ss.
COUNTY OF WASATCH)

On this 1 day of Nov, 2006,
personally appeared before me Jason Hadcock,
representing the above-named Landowner, Redmond Investment
Properties, L.C., who duly acknowledged to me that he is the
owner in fee, or duly appointed representative, and executed the
same as such.

Paula Mories
NOTARY PUBLIC

STATE OF UTAH)
: ss.
COUNTY OF WASATCH)



On this _____ day of _____, 2006, personally

appeared before me _____, representing the above-named Landowner, John Crook, who duly acknowledged to me that he is the owner in fee, or duly appointed representative, and executed the same as such.

NOTARY PUBLIC

STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2006, personally appeared before me _____, representing the above-named Landowner, Susan Crook, who duly acknowledged to me that she is the owner in fee, or duly appointed representative, and executed the same as such.

NOTARY PUBLIC

STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

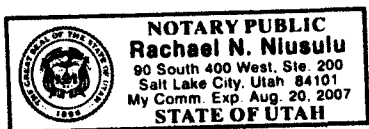
On this _____ day of _____, 2006, personally appeared before me _____, representing the above-named Landowners, Jason and Janette Sweat, who duly acknowledged to me that he is the owner in fee, or duly appointed representative, and executed the same as such.

NOTARY PUBLIC

STATE OF UTAH)
 : ss.
COUNTY OF ~~WASATCH~~ ^{Salt Lake})

On this 14th day of November, 2006, personally appeared before me Steven B. Oster, representing The Boyer Company, L.C. who duly acknowledged to me that he is the owner in fee, or duly appointed representative,

and executed the same as such.



Rachael Niusulu
NOTARY PUBLIC

personally appeared before me _____,
representing the above-named Landowner, Crook Family Trust, who
duly acknowledged to me that he is the owner in fee, or duly
appointed representative, and executed the same as such.

NOTARY PUBLIC

STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2006,
personally appeared before me _____,
representing the above-named Landowner, Evan and Carolyn Sweat,
who duly acknowledged to me that he is the owner in fee, or duly
appointed representative, and executed the same as such.

NOTARY PUBLIC

STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2006,
personally appeared before me _____,
representing the above-named Landowner, Redmond Investment
Properties, L.C., who duly acknowledged to me that he is the
owner in fee, or duly appointed representative, and executed the
same as such.

NOTARY PUBLIC

STATE OF ~~UTAH~~ S.C.)
 : ss.
COUNTY OF ~~WASATCH~~)

On this 8th day of November, 2006, personally

Redmond Investment Properties, L.C.
A Utah limited liability company

By: _____

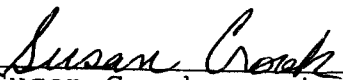
Name: _____

Title: _____

John and Susan Crook



John Crook, an individual



Susan Crook, an individual

Jason and Janette Sweat

Jason Sweat, an individual

Janette Sweat, an individual

The Boyer Company, L.C.
A Utah limited liability company

By: _____

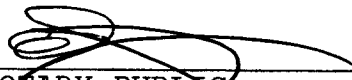
Name: _____

Title: _____

STATE OF UTAH)
 : ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2006,


appeared before me John Crook, representing the above-named Landowner, John Crook, who duly acknowledged to me that he is the owner in fee, or duly appointed representative, and executed the same as such.


NOTARY PUBLIC

EDWARD L. JOYCE, Notary Public
State of S.C., County of Sumter
My Commission Expires Dec. 05, 2013

S.C.
STATE OF ~~UTAH~~)
Sumter : ss.
COUNTY OF WASATCH)

On this 8th day of November, 2006, personally appeared before me Susan Crook, representing the above-named Landowner, Susan Crook, who duly acknowledged to me that she is the owner in fee, or duly appointed representative, and executed the same as such.


NOTARY PUBLIC

EDWARD L. JOYCE, Notary Public
State of S.C., County of Sumter
My Commission Expires Dec. 05, 2013

STATE OF UTAH)
: ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2006, personally appeared before me _____, representing the above-named Landowners, Jason and Janette Sweat, who duly acknowledged to me that he is the owner in fee, or duly appointed representative, and executed the same as such.

NOTARY PUBLIC

STATE OF UTAH)
: ss.
COUNTY OF WASATCH)

On this _____ day of _____, 2006, personally appeared before me _____, representing The Boyer Company, L.C. who duly acknowledged to me that he is the owner in fee, or duly appointed representative,

BEGINNING AT THE WASATCH COUNTY SURVEY MONUMENT FOR THE NORTHEAST CORNER OF SECTION 7, TOWNSHIP 4 SOUTH, RANGE 5 EAST, SALT LAKE BASE AND MERIDIAN;

AND RUNNING THENCE SOUTH 441.75 FEET ALONG THE PRESENT BOUNDARY OF HEBER CITY AS EVIDENCED BY THE ROYAL COACHMAN ANNEXATION (SEE ENTRY NUMBER 149710 BOOK 211 PAGE 455-464);

THENCE WEST 209.66 FEET AND SOUTH $50^{\circ}21'05''$ WEST 100.63 FEET AND SOUTH $03^{\circ}53'23''$ WEST 80.33 FEET AND SOUTH $04^{\circ}43'40''$ WEST 302.85 FEET ALONG THE PRESENT BOUNDARY OF HEBER CITY AS EVIDENCED BY THE MORGAN ANNEXATION (SEE ENTRY NUMBER 222707 BOOK 456 PAGES 269-278):

THENCE SOUTH $89^{\circ}59'58''$ WEST 429.85 FEET ALONG THE PRESENT BOUNDARY OF HEBER CITY AS EVIDENCED BY THE AIRPORT ANNEXATION (SEE ENTRY NUMBER 205688 BOOK 391 PAGES 438-447);

THENCE NORTH $39^{\circ}57'40''$ WEST 101.86 FEET; THENCE NORTH $50^{\circ}02'20''$ EAST 337.94 FEET; THENCE SOUTH $89^{\circ}50'30''$ WEST 1478.05 FEET; THENCE NORTH $40^{\circ}23'30''$ WEST 183.62 FEET;

THENCE NORTH $89^{\circ}49'46''$ EAST 5.57 AND NORTH $40^{\circ}23'36''$ WEST 14.03 FEET ALONG TO THE BEGINNING OF A NON TANGENT CURVE TO THE RIGHT AND CONCAVE NORTHEASTERLY WITH A RADIUS OF 1533.00 FEET AND FROM WHICH A RADIAL LINE BEARS NORTH $49^{\circ}36'24''$ EAST AND THENCE NORTHWESTERLY 519.94 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF $19^{\circ}25'58''$ (CHORD BEARS NORTH $30^{\circ}40'37''$ WEST 517.45 FEET) ALONG THE PRESENT BOUNDARY OF HEBER CITY AS EVIDENCED BY THE HERROD ANNEXATION (SEE ENTRY NUMBER 225474 BOOK 467 PAGE 636-645);

THENCE NORTH $89^{\circ}43'23''$ EAST 570.32 FEET AND NORTH $01^{\circ}06'23''$ EAST 665.00 FEET AND SOUTH $89^{\circ}43'23''$ WEST 2.71 FEET ALONG THE PRESENT BOUNDARY OF HEBER CITY AS EVIDENCED BY THE WASATCH COUNTY SCHOOL DISTRICT ANNEXATION (SEE ENTRY NUMBER 170070 BOOK 270 PAGE 271-290);

THENCE NORTH $02^{\circ}01'33''$ EAST 51.56 FEET AND SOUTH $88^{\circ}15'23''$ EAST 693.51 FEET ALONG THE PRESENT BOUNDARY OF HEBER CITY AS EVIDENCED BY THE INDUSTRIAL PARK ANNEXATION AND THAT CERTAIN RECORD OF SURVEY PREPARED AND CERTIFIED BY GILBERT HORROCKS FOR THE HEBER CITY INDUSTRIAL PARK PROPERTY ON 29 DECEMBER, 1978;

THENCE SOUTH $00^{\circ}48'00''$ WEST 696.82 FEET AND EAST 1152.62 FEET ALONG THE PRESENT BOUNDARY OF HEBER CITY AS EVIDENCED BY THE RITCHIE ADDITION ANNEXATION (SEE ENTRY NUMBER 109030 BOOK 109 PAGES 664-73) TO THE POINT OF BEGINNING.

CONTAINING 43.781 ACRES.