



RESOLUTION 2026-17

A RESOLUTION APPROVING AN ANNEXATION AGREEMENT FOR THE GRANT B. KOHLER TRUST ANNEXATION

WHEREAS, Utah law authorizes municipalities to enter into agreements for the annexation of land into the municipality; and

WHEREAS, the Midway City Council finds it in the public interest of the City of Midway to enter into an annexation agreement for the Grant B. Kohler Trust Annexation;

NOW, THEREFORE, be it hereby **RESOLVED** by the City Council of Midway City, Utah, as follows:

Section 1: The Midway City Council approves the annexation agreement attached hereto and authorizes the Mayor of Midway City to execute the agreement on behalf of the City.

Section 2: The effect of this Resolution is subject to all conditions of the land use approval granted by the City for the proposed project.

PASSED AND ADOPTED by the Midway City Council on the _____ day of _____, 2026.

MIDWAY CITY

Craig Simons, Mayor

ATTEST:

Brad Wilson, Recorder

(SEAL)

DRAFT

Exhibit A

DRAFT

ANNEXATION AGREEMENT

Grant B. Kohler Trust / Chad Himmer Annexation

This Annexation Agreement (“Agreement”) is entered into as of the ____ day of _____, 2026, by and between MIDWAY CITY, a Utah municipal corporation (“City”), and GRANT B. KOHLER TRUST and CHAD HIMMER, together with any other owners or petition sponsors who execute this Agreement, collectively referred to as “Petitioner.” The City and Petitioner may be referred to individually as a “Party” and collectively as the “Parties.”

RECITALS

A. Petitioner has submitted a Petition for Annexation requesting annexation into Midway City of approximately 2.23 acres of real property located at or near 970 North River Road, Midway, Utah, including Wasatch County Parcel Nos. OWC-0298-3, OWC-0298-2, and OWC-0536-0, together with adjacent right-of-way or other lands included within the annexation plat, as legally described in Exhibit A attached hereto and incorporated herein by this reference (the “Property”).

B. The Property is depicted on the annexation plat attached hereto as Exhibit B and incorporated herein by this reference (the “Annexation Plat”).

C. The Petition materials identify the Grant B. Kohler Trust and Chad Himmer as petition sponsors and indicate that the annexation area includes private property and approximately 0.17 acres owned by Midway City as part of the River Road right-of-way.

D. Petitioner has submitted a concept plan generally showing a proposed two-lot subdivision, with Lot 1 consisting of approximately 1.06 acres and Lot 2 consisting of approximately 1.00 acre, and with one existing dwelling and one proposed additional dwelling, as generally depicted in Exhibit C attached hereto and incorporated herein by this reference (the “Concept Plan”).

E. The City has reviewed the Petition for purposes of determining whether the Petition may be accepted for further consideration under applicable Utah law and Midway City ordinances. Acceptance for further consideration does not guarantee final annexation approval, zoning approval, subdivision approval, building permit approval, utility approval, or any other land use approval.

F. The City’s annexation requirements are intended to ensure that property annexed to the City contributes to the attractiveness of the community, enhances the rural and resort image of the City, and does not impose an unreasonable burden upon City resources or the City tax base.

G. The City is willing to consider annexation of the Property subject to the conditions, limitations, dedications, reimbursements, fees, and other obligations set forth in this Agreement, the annexation ordinance, the Midway City Municipal Code, applicable Utah law, and all subsequently required land use approvals.

H. Petitioner acknowledges that annexation is a legislative act, that the City retains legislative discretion whether to approve or deny annexation, and that this Agreement is intended to establish conditions that will apply only if the City Council approves annexation of the Property.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

1. Incorporation of Recitals

The foregoing Recitals are incorporated into and made a part of this Agreement.

2. Property Subject to Agreement

This Agreement applies to the Property described in Exhibit A and depicted on the Annexation Plat attached as Exhibit B. If the final legal description or final annexation plat approved by the City Engineer, City Recorder, County Surveyor, Lieutenant Governor's Office, or other applicable reviewing authority differs from the attached exhibits, the final approved and recorded annexation plat and legal description shall control.

3. Effectiveness; Condition Precedent

This Agreement shall become effective only upon all of the following:

1. Approval of this Agreement by the Midway City Council;
2. Execution of this Agreement by the authorized representatives of the City and Petitioner;
3. Adoption of an ordinance approving annexation of the Property into Midway City;
4. Satisfaction of all statutory protest, notice, certification, filing, and recording requirements applicable to annexation; and
5. Recording of the annexation plat and all required annexation documents in the official records of Wasatch County, Utah, if required by law or by the City.

If the City Council does not approve the annexation, or if the annexation is not completed for any reason, this Agreement shall be null and void, and neither Party shall have any further obligation under this Agreement except for obligations that expressly survive termination, including payment of costs, reimbursement obligations, and indemnity obligations incurred before termination.

4. No Guarantee of Approval

Petitioner acknowledges and agrees that:

1. Acceptance of the Petition for further consideration does not constitute approval of annexation;
2. Approval of this Agreement does not obligate the City Council to approve annexation unless the City Council separately approves annexation by ordinance;
3. Annexation approval, if granted, does not constitute approval of any subdivision, site plan, building permit, utility connection, grading permit, access permit, sensitive lands approval, or other land use approval;

4. Any future subdivision or development of the Property shall comply with all applicable City ordinances, standards, policies, fees, impact fees, engineering requirements, and land use approval processes in effect at the time of application, unless otherwise expressly provided by a valid written development agreement approved by the City Council; and
5. Petitioner proceeds at Petitioner's own risk with respect to any costs incurred before final annexation and all required development approvals.

5. Annexation; Zoning

Upon final annexation, the Property shall be subject to the jurisdiction, ordinances, standards, fees, taxes, and regulatory authority of Midway City.

The Property shall be assigned the zoning designation of RA-1-43, or such other zoning designation as may be approved by the City Council in connection with the annexation ordinance. Petitioner acknowledges that zoning is a legislative decision and that no representation has been made that any particular zoning designation, density, lot configuration, use, or development entitlement will be approved except as expressly adopted by ordinance.

6. Development Limitation and Concept Plan

Unless otherwise approved by the City through subsequent land use approvals, the annexation is conditioned upon the Property being developed substantially consistent with the Concept Plan, including the following limitations:

1. The Property shall be limited to a maximum of two residential lots unless otherwise approved by the City through a future legislative or administrative process, as applicable;
2. The Property shall be limited to one existing dwelling and not more than one additional dwelling unless otherwise approved by the City;
3. The Concept Plan is conceptual only and does not approve final lot lines, setbacks, access, utilities, grading, drainage, landscaping, fencing, building placement, or any other development detail;
4. All future dwellings, accessory structures, and other improvements shall comply with Midway City setbacks, height limits, design standards, architectural requirements, building codes, fire codes, engineering standards, and all other applicable requirements;
5. No subdivision plat may be recorded until the City has approved the subdivision through the applicable City process and Petitioner has satisfied all conditions of approval; and
6. No building permit for a new dwelling may be issued until annexation is complete, zoning is effective, all required subdivision approvals are final, all required improvements and financial assurances have been provided, all required water rights or water shares have been conveyed or dedicated, and all applicable fees have been paid.

7. Water Rights and Culinary Water Service

As a material condition of annexation and any future subdivision or development, Petitioner shall acquire, provide, convey, dedicate, assign, or otherwise make available to the City all water rights, water shares, or other water entitlements required by the Midway City Municipal Code, City policy, applicable Utah law, and the City Engineer for the existing and proposed uses on the Property.

Without limiting the foregoing:

1. Petitioner shall dedicate all required water rights or water shares to the City before recordation of any subdivision plat creating a new lot or before issuance of any building permit requiring additional water service, whichever occurs first;
2. Petitioner shall provide documentation acceptable to the City demonstrating the validity, ownership, transferability, quantity, beneficial use, priority, source, place of use, and availability of all water rights or water shares proposed to satisfy City requirements;
3. Petitioner shall be solely responsible for any change applications, segregation, conveyance documents, title documentation, approvals, protests, diligence claim issues, State Engineer proceedings, or other actions necessary to make the water acceptable for City use;
4. The City is not obligated to accept any water right, water share, or water source that the City determines is insufficient, defective, impaired, unavailable, non-transferable, subject to unresolved claims, or otherwise unacceptable to the City;
5. No representation is made by the City that Water Right No. 55-1513, or any portion thereof, is sufficient or acceptable to satisfy City water dedication requirements;
6. If any disclosed water right is subject to unauthorized use, unresolved change application requirements, title defects, pending objections, or other limitations, Petitioner shall resolve those issues at Petitioner's sole cost before the City is required to approve any subdivision plat or issue any building permit dependent upon such water;
7. Petitioner shall pay all culinary water connection fees, impact fees, inspection fees, meter fees, reimbursement charges, and other charges applicable to water service; and
8. The City shall have no obligation to provide additional culinary water service to the Property unless and until all City requirements for service have been satisfied.

8. Sewer and Other Utility Service

Petitioner shall obtain and provide evidence of all required approvals for sewer, power, gas, telecommunications, irrigation, drainage, and other utilities necessary to serve the Property. Petitioner shall be solely responsible for all utility extensions, relocations, upgrades, easements, connection fees, impact fees, reimbursement obligations, and other costs associated with development of the Property.

No subdivision plat shall be recorded and no building permit shall be issued until Petitioner has demonstrated to the City's satisfaction that adequate sewer and utility service is legally and physically available to serve the proposed development.

9. Public Improvements; Infrastructure

Petitioner shall design, construct, install, dedicate, warranty, and financially assure all public and private improvements required by the City Engineer, City ordinances, adopted standards, the subdivision approval, the annexation approval, and applicable law, including without limitation any required improvements relating to:

1. Streets, access, driveways, and rights-of-way;
2. Culinary water facilities;
3. Sewer facilities;
4. Storm drainage and low-impact development facilities;
5. Irrigation facilities, if applicable;
6. Fire protection and emergency access;
7. Street lighting, signage, striping, and traffic control, if required;
8. Landscaping, fencing, and screening, if required;
9. Utility easements and public utility infrastructure; and
10. Any off-site improvements or upgrades required to mitigate impacts of the development.

All improvements shall be constructed in accordance with City standards and approved plans. The City may require completion of improvements or posting of acceptable financial assurance before recordation of any subdivision plat or issuance of any building permit.

10. Access and Driveways

The Petition materials indicate that access for the proposed new home is anticipated to be from an existing driveway and that no new impacts or driveways are proposed to River Road.

Petitioner shall not create any new access point, driveway, curb cut, or approach onto River Road or any public street unless approved by the City Engineer and any other agency with jurisdiction.

All access shall comply with City standards, fire code requirements, sight-distance requirements, emergency access requirements, and any conditions imposed through subdivision or building permit review.

11. Roads; River Road Right-of-Way

Petitioner acknowledges that a portion of the annexation area includes existing River Road right-of-way or property owned by Midway City. Nothing in this Agreement grants Petitioner any

private right, title, interest, or development entitlement in City-owned property or public right-of-way.

Petitioner shall dedicate or confirm dedication of all rights-of-way, easements, and public improvements required by the City as part of annexation, subdivision, or development approval. Petitioner shall execute any deeds, dedication instruments, easements, plat notes, or other documents reasonably required by the City to clarify ownership, maintenance, access, utilities, drainage, or public use of River Road and any affected right-of-way.

12. Sensitive Lands; Environmental Conditions

Petitioner has submitted a sensitive lands analysis indicating that the Property is not within the 100-year floodplain, does not contain mapped wetlands, does not contain slopes over 25%, does not contain ridgelines or benches, does not contain springs or wells within the annexation area, and does not contain critical wildlife habitat. Petitioner shall remain responsible for the accuracy of all submitted information.

If, during review or development, the City or any agency with jurisdiction determines that the Property contains floodplain, wetlands, springs, wells, steep slopes, geologic hazards, wildlife habitat, drainage features, historic resources, or other sensitive lands or regulated features, Petitioner shall comply with all applicable requirements, obtain all necessary permits, and modify the proposed development as necessary to address such conditions.

The City's approval of annexation shall not constitute a representation or warranty that the Property is free from sensitive lands, environmental limitations, geologic hazards, drainage concerns, or other development constraints.

13. Drainage and Stormwater

Petitioner shall design, construct, and maintain all drainage, stormwater, detention, retention, conveyance, and water quality facilities required by the City Engineer and applicable law. Development shall not increase stormwater runoff, drainage impacts, erosion, sedimentation, or flooding impacts on adjacent properties, public rights-of-way, or City infrastructure except as expressly approved by the City Engineer through approved plans.

Petitioner shall provide all drainage easements and maintenance agreements required by the City. Private stormwater facilities shall remain the responsibility of the owner or owners' association unless expressly accepted in writing by the City.

14. Fees, Costs, Deposits, and Reimbursements

Petitioner shall pay all applicable fees, deposits, review costs, consultant costs, engineering costs, legal costs, recording fees, publication fees, noticing costs, inspection fees, impact fees, connection fees, parks and recreation fees, and other charges required by the City or applicable law in connection with the annexation, subdivision, development, utility service, and building permits for the Property.

Without limiting the foregoing:

1. Petitioner shall pay all annexation application fees and deposits required by the City;
2. Petitioner shall replenish any deposit if required by City policy or ordinance;
3. Petitioner shall pay all fees before recording of the annexation plat or subdivision plat if required by City ordinance or approval conditions;
4. Any negotiated parks and recreation infrastructure fee or contribution shall be paid before recording of the annexation plat or as otherwise required by the City Council;
5. Petitioner shall pay all impact fees lawfully imposed by the City or other service providers; and
6. Petitioner shall not be entitled to reimbursement, credit, offset, or waiver unless expressly approved in writing by the City Council in a separate agreement.

15. Compliance with City Ordinances and Future Approvals

Following annexation, the Property and all owners, successors, and assigns shall comply with all applicable City ordinances, standards, resolutions, policies, fees, and land use requirements, including those related to zoning, subdivision, building, fire, engineering, nuisance, code enforcement, business licensing, short-term rentals, signage, landscaping, lighting, parking, and utilities.

This Agreement does not vest Petitioner in any future land use ordinance, fee schedule, standard, or policy unless vested rights are expressly granted by Utah law or by a separate written development agreement approved by the City Council.

16. No Waiver of Police Power or Legislative Authority

Nothing in this Agreement shall be construed to waive, restrict, bargain away, or limit the City's legislative, governmental, police power, land use, utility, health, safety, welfare, or code enforcement authority. The City retains all authority to adopt, amend, interpret, and enforce ordinances, policies, standards, fees, and regulations as allowed by law.

17. Representations and Warranties of Petitioner

Petitioner represents and warrants that:

1. Petitioner owns or has authority to act on behalf of the owners of the private property included within the annexation area;
2. All persons or entities required to execute this Agreement on behalf of Petitioner have authority to do so;
3. Petitioner has disclosed all known water rights, water shares, utility rights, access rights, easements, encumbrances, and development constraints material to the annexation and proposed development;

4. The Petition materials submitted to the City are true and correct to the best of Petitioner's knowledge;
5. Petitioner has not relied on any representation by the City that annexation, subdivision, zoning, building permits, utility approvals, or any other approvals are guaranteed; and
6. Petitioner shall promptly notify the City of any material change in ownership, title, water rights, development plans, or other facts relevant to the annexation or future development.

18. Indemnification

To the fullest extent permitted by law, Petitioner shall indemnify, defend, and hold harmless the City and its elected officials, officers, employees, agents, consultants, attorneys, and representatives from and against any and all claims, demands, damages, liabilities, losses, costs, expenses, attorney fees, expert fees, and causes of action arising out of or related to:

1. Petitioner's Petition, annexation request, subdivision request, development activity, construction activity, or use of the Property;
2. Any inaccurate or incomplete information submitted by Petitioner;
3. Any challenge to Petitioner's ownership, authority, signatures, water rights, access rights, or ability to perform under this Agreement;
4. Any claim by a third party arising from annexation, subdivision, development, utility service, drainage, access, construction, or title matters related to the Property; and
5. Petitioner's breach of this Agreement.

This indemnity shall not apply to the extent a claim is caused by the City's sole willful misconduct or gross negligence.

19. Default and Remedies

A Party shall be in default if the Party fails to perform any material obligation under this Agreement and fails to cure such default within thirty (30) days after written notice from the non-defaulting Party. If the default cannot reasonably be cured within thirty (30) days, the defaulting Party shall not be in default if it commences cure within the thirty-day period and diligently pursues cure to completion.

In addition to any other remedy available at law or in equity, the City may withhold subdivision approval, plat recordation, building permits, utility approvals, inspections, certificates of occupancy, or other approvals if Petitioner is in default of this Agreement or has not satisfied conditions applicable to the requested approval.

20. Runs with the Land; Binding Effect

This Agreement shall run with the land and shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, successors, assigns, grantees, purchasers, lessees, and

all future owners of any portion of the Property. Petitioner shall disclose this Agreement to any purchaser or transferee of any portion of the Property.

The City may require this Agreement or a memorandum of this Agreement to be recorded against the Property.

21. Assignment

Petitioner may not assign this Agreement or any rights or obligations under this Agreement without providing written notice to the City and without ensuring that the assignee assumes all obligations applicable to the Property or portion thereof. No assignment shall relieve Petitioner of obligations accruing before the assignment unless expressly released in writing by the City.

22. Notices

All notices required under this Agreement shall be in writing and shall be delivered personally, by certified mail, return receipt requested, by recognized overnight courier, or by email with confirmation of receipt, to the following:

To City:

Midway City
Attn: City Recorder
75 North 100 West
Midway, Utah 84049
Email: _____

With a copy to:
Midway City Attorney

Email: _____

To Petitioner:

Grant B. Kohler Trust
Attn: _____
Address: _____
Email: _____

Chad Himmer
Address: _____
Email: _____

With a copy to:
Paul Berg, P.E.
Berg Engineering
380 East Main Street, Suite 204
Midway, Utah 84049
Email: paul@bergeng.net

A Party may change its notice address by providing written notice to the other Party.

23. Entire Agreement

This Agreement, together with its exhibits, constitutes the entire agreement between the Parties regarding the subject matter herein and supersedes all prior negotiations, representations, discussions, or agreements regarding annexation conditions for the Property, except for ordinances, approvals, conditions, and requirements separately imposed by the City.

24. Amendment

This Agreement may be amended only by a written instrument approved by the Midway City Council and executed by authorized representatives of all Parties, unless a less formal process is expressly authorized by law for administrative or technical corrections.

25. Severability

If any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions shall remain in full force and effect unless the invalid provision is material to the overall purpose of this Agreement.

26. Governing Law; Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of Utah. Venue for any action arising out of this Agreement shall be in the Fourth Judicial District Court, Wasatch County, State of Utah.

27. Attorney Fees

In any action to enforce this Agreement, the prevailing Party shall be entitled to recover reasonable attorney fees, expert fees, and costs, whether incurred before litigation, during litigation, on appeal, or in collection.

28. Authority

Each person executing this Agreement represents and warrants that he or she has full authority to execute this Agreement on behalf of the Party for whom he or she signs.

29. Counterparts and Electronic Signatures

This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument. Electronic or scanned signatures shall be treated as originals to the fullest extent permitted by law.

30. Exhibits

The following exhibits are attached and incorporated by reference:

Exhibit A – Legal Description of Annexation Area

Exhibit B – Annexation Plat

Exhibit C – Concept Plan

Exhibit D – Water Rights Disclosure

Exhibit E – Sensitive Lands Analysis
Exhibit F – Development Timetable

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

MIDWAY CITY

MIDWAY CITY,
a Utah municipal corporation

By: _____

Name: _____

Title: Mayor

Attest:

By: _____

City Recorder

Approved as to form:

By: _____

City Attorney

PETITIONER

GRANT B. KOHLER TRUST

By: _____

Name: _____

Title: Trustee / Authorized Representative

STATE OF UTAH

COUNTY OF _____

On this ____ day of _____, 2026, personally appeared before me
_____, who being duly sworn, acknowledged that he/she executed the
foregoing Annexation Agreement on behalf of the Grant B. Kohler Trust.

Notary Public: _____

My Commission Expires: _____

CHAD HIMMER

By: _____
Chad Himmer

STATE OF UTAH
COUNTY OF _____

On this ____ day of _____, 2026, personally appeared before me Chad Himmer, who being duly sworn, acknowledged that he executed the foregoing Annexation Agreement.

Notary Public: _____
My Commission Expires: _____

EXHIBIT A

Legal Description of Annexation Area

BEGINNING AT A POINT THAT IS SOUTH 37°58'22" WEST 3428.60 FEET FROM THE NORTHEAST CORNER OF SECTION 25, TOWNSHIP 3 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 03°33'17" WEST 193.67 FEET; THENCE SOUTH 84°05'59" EAST 31.00 FEET; THENCE SOUTH 117.57 FEET TO A POINT OF THE NORTH LINE OF PARCEL 12-4607; THENCE ALONG SAID NORTH LINE NORTH 83°43'32" WEST 114.91 FEET; THENCE LEAVING SAID NORTH LINE SOUTH 06°16'28" WEST 16.57 FEET TO A POINT ON AN EXISTING FENCE LINE; THENCE NORTH 85°10'02" WEST 351.38 FEET; THENCE ALONG THE ARC OF A 548.78 FOOT CURVE TO THE LEFT 555.66 FEET (CENTRAL ANGLE OF 58°00'50" AND A CHORD BEARING NORTH 57°11'36" EAST 532.22 FEET) TO THE POINT OF BEGINNING.

CONTAINING 2.23 ACRES.

The foregoing legal description shall be subject to final review and approval by the City Engineer, County Surveyor, City Recorder, and any other reviewing authority required by law.

EXHIBIT B

Annexation Plat

Attach final approved Grant B. Kohler Trust Annexation Plat.

EXHIBIT C

Concept Plan

Attach Kohler Farm Subdivision 2026 Concept Plan dated March 19, 2026.

EXHIBIT D

Water Rights Disclosure

Attach water rights disclosure materials submitted by Petitioner, including Water Right No. 55-1513 information, subject to City review and acceptance.

EXHIBIT E

Sensitive Lands Analysis

Attach sensitive lands analysis submitted by Petitioner, subject to City review and verification.

EXHIBIT F

Development Timetable

Annexation Approval: June 2026

Small Scale Subdivision Approval: September 2026

Construction of Small Scale Subdivision Improvements: October 2026

Building Permit Approval: November 2027

Construction of New Home Begins: December 2027

Construction of New Home Completed: September 2027

The foregoing timetable is conceptual only and does not bind the City to approve any application or issue any permit by a specified date.