

TOLLING AGREEMENT

THIS TOLLING AGREEMENT (the "Agreement") is effective as of this 5th day of February, 2019, (the "Effective Date") by and between TOOELE COUNTY (the "County") and those operators of excavation operations, as those terms are used in the Ordinance, who have signed and returned to the County a fully executed copy of this Agreement, including the form attached as Exhibit A, as provided herein (collectively the "Gravel Operators"). The County and the Gravel Operators are sometimes referred to herein individually as a "Party" or collectively as the "Parties".

WHEREAS, on December 18, 2018, the Tooele County Commission approved Ordinance No. 2018-14 adopting regulations applicable to all mining, quarry, sand and gravel excavation operations, including both those currently permitted and legal nonconforming uses (the "Ordinance"); and

WHEREAS, the Ordinance was published in the Tooele Transcript Bulletin on January 8, 2019, which is the effective date of said Ordinance; and

WHEREAS, the Gravel Operators may wish to file a legal action challenging the Ordinance, which may include certain claims asserting both facial and/or as applied challenges to the Ordinance; and

WHEREAS, the County and the Gravel Operators desire to toll any applicable time limitations on the filing of such claims during the "Effective Period" of this Agreement, as defined in paragraph 10 below;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the Parties hereby agree as follows:

1. **Tolling Agreement.** During the "Effective Period" of this Agreement as defined in paragraph 10 below, the Parties agree that any and all statutes of limitations, statutes of repose, defenses, or other avoidances that either Party may have against the other Party relating to any claim challenging the Ordinance or that otherwise arises out of or relates to the adoption and application of the Ordinance to the Gravel Operators shall be suspended and tolled. Upon the expiration of the "Effective Period", all statutes of limitations, statutes of repose, defenses and other avoidances shall commence to run again. Nothing in this Agreement shall be construed as a waiver by any Party of any defense or avoidance based on any statute of limitations, statute of repose, laches or other time limitation that such Party has or would in any way arise out of the adoption of the Ordinance immediately preceding the Effective Date of this Agreement. Nothing in this Agreement, or in the circumstances which give rise to this Agreement, shall be construed as an acknowledgement by any Party that any claim has or has not been barred, or is about to be barred, by any applicable statute of limitations or statute of repose, or any other defense based on the lapse of time. Except as expressly provided in this Agreement, nothing herein shall operate as a waiver of any right, claim or defense by any Party against any other Party. Notwithstanding the foregoing, the Parties expressly waive any claim or defense that, upon the expiration of the "Effective Period," a court does not have subject matter jurisdiction with respect to any claim

challenging the Ordinance or that otherwise arises out of or relates to the adoption and application of the Ordinance and which has been tolled in this Agreement.

2. **No Admission of Liability.** This Agreement shall not operate as an admission of liability by either Party. Neither this Agreement nor any action taken pursuant to this Agreement shall be offered or received in evidence in any action or proceeding as an admission of liability or wrongdoing by any Party.

3. **Termination.** Either Party may terminate this Agreement on written notice to the other Party given by personal delivery (by means of professional delivery service) or sent by registered mail, return receipt requested. This Agreement shall be terminated as to all Parties effective immediately after the date of receipt (or the date of refusal of delivery) of the first such notice of termination by any Party.

4. **Notice.** Any notice pursuant to this Agreement (including any notice to terminate this Agreement) shall be in writing and shall be made by personal delivery (by means of a professional delivery service) or sent by registered mail, return receipt requested, to the following:

A. Notice to the County shall be delivered/sent to:

Scott Broadhead
Tooele County Attorney
74 S. 100 E. #26
Tooele County, Utah 84704

B. Notice to the Gravel Operators shall be sent to the attention of each representative of the Gravel Operators at the mailing address and email address as identified in the executed copies of the Agreement delivered by each Gravel Operator to the County in accordance with the requirements of this Agreement.

Either Party may change or add to the addresses by which it shall be given notice by giving written notice of the change of address to the other Parties at the above addresses by personal delivery (by means of a professional delivery service) or by registered mail, return receipt requested.

5. **Entire Agreement.** This Agreement constitutes the entire Agreement among the Parties pertaining to the subject matter hereof, and supercedes all prior agreements and understandings pertaining to the subject matter of this Agreement. No covenant, representation or condition not expressed in this Agreement shall affect or be deemed to interpret, change or restrict the express provisions hereof. This Agreement may be modified, amended, supplemented or extended only by a written instrument signed by all of the Parties.

6. **Warranty of Authority.** Each undersigned Party represents, warrants and states to the other Party hereto that all legal action necessary for the effectuation and execution of this Agreement by such Party has been validly taken, and that the individuals whose signatures appear below on behalf of such Party are duly authorized to execute this Agreement on behalf of such Party.

7. **Applicable Law.** This Agreement shall be interpreted in accordance with the substantive law of the State of Utah, without application of choice of law rules. Any action arising out of or relating to this Agreement shall be brought in the Third Judicial District Court of Tooele County, State of Utah.

8. **Effectiveness of Agreement.** This Agreement shall be binding upon and inure to the benefit of the Parties and their members, heirs, executors, administrators, successors, legal representatives and assigns.

9. **Joinder in Agreement.** Any operator; as that term is used in the Ordinance, that claims to be operating or have an interest in an excavation, as that term is used in the Ordinance, in Tooele County may join this Agreement by delivering a fully executed copy of Exhibit A to the County in accordance with the notice requirements of Paragraph 4 of this Agreement on or before 5:00 p.m. Mountain Standard Time on February 7, 2019. By entering into this Agreement, the County shall not be deemed to have acknowledged that any of the Gravel Operators who have executed this Agreement have any legal rights to operate an excavation operation under the Ordinance in the County. Likewise, by executing this Agreement, the Gravel Operators shall not be deemed to have waived any claims or rights that they have to operate an excavation operation under the Ordinance in the County.

10. **Counterparts.** This Agreement may be executed in counterparts, and each counterpart of this Agreement executed by one or more of the Parties shall be deemed an original of this Agreement. For purposes of this Agreement, a facsimile copy or emailed copy of a signature to this Agreement shall be considered an executed original. After February 7, 2019, the County shall provide to all of the Gravel Operators a fully executed copy of the Agreement, including copies of each executed Exhibit A provided to the County. Copies shall be sent to the Party's email and mailing addresses as set forth in the notice requirements of Paragraph 4.

11. **Effective Period of Agreement.** The "Effective Period" of this Agreement shall commence on the Effective Date. The "Effective Period" of this Agreement shall end thirty (30) calendar days after a Party gives written notice to all other Parties identified in the final copy of the Agreement delivered to all parties in accordance with Paragraph 10 of this Agreement stating its intent to terminate this Agreement. Such notice shall not be effective unless it is given on or after March 1, 2020. If any operator of an excavation operation, as those terms are used in the Ordinance, who is not a party to this Agreement files legal action challenging the Ordinance before the termination of the "Effective Period," any of the Gravel Operators shall have the option, at their election, to join such legal action. If one or more of the Gravel Operators elects to join such legal action that has been filed by an operator who is not party to this Agreement, this shall not negate or nullify this Agreement for any parties who elect not to join in the legal action filed by the operator who is not a party to this Agreement.

COUNTY OF TOOELE

By: Tom Tripp

Its: Tooele County Commission Chair

Date: 11 Feb 2019

ATTEST:

Marilyn K. Gillette

MARILYN K. GILLETTE
TOOELE COUNTY CLERK/AUDITOR



EXHIBIT A - GRAVEL OPERATOR JOINDER TO TOLLING AGREEMENT

TM CRUSHING, who
(Operator business name)
claims to be an operator of an excavation operation, as those terms are used in the Ordinance, in
Tooele County, hereby joins and agrees to be a party to and bound by the foregoing Tolling
Agreement.

As required by Paragraph 4 of the Tolling Agreement, all notices to the undersigned
operator shall be sent to the following:

Operator Business Name: TM CRUSHING

Representative: JOHN D. HADFIELD

Title: MANAGING MEMBER

E-mail Address: jhadfield@hadcoconstruction.com

Permanent Mailing Address: P.O. BOX 437

LEHI, UT 84043

Business Number: 801-766-7611

Cellphone Number: 801-

Executed this 8 day of February, 2019.

Operator: TM CRUSHING

Signature: [Handwritten Signature]

Printed Name: JOHN D. HADFIELD

Title: Managing member.

EXHIBIT A – GRAVEL OPERATOR JOINDER TO TOLLING AGREEMENT

Rulon Harper Construction, Inc., who
(Operator business name)
claims to be an operator of an excavation operation, as those terms are used in the Ordinance, in
Tooele County, hereby joins and agrees to be a party to and bound by the foregoing Tolling
Agreement.

As required by Paragraph 4 of the Tolling Agreement, all notices to the undersigned
operator shall be sent to the following:

Operator Business Name: Rulon Harper Construction Materials

Representative: Rulon Harper

Title: President

E-mail Address: rulon@harpercompaniesinc.com

Permanent Mailing Address: 8201 W. 5400 S.
SLC, UT 84044

Business Number: 801-326-1016

Cellphone Number: 801-231-5610

Executed this 7 day of February, 2019.

Operator: Rulon Harper Construction, Inc.

Signature: Scott Mercer

Printed Name: Scott O. Mercer

Title: Attorney

EXHIBIT A – GRAVEL OPERATOR JOINDER TO TOLLING AGREEMENT

GENEVA ROCK PRODUCTS, INC., who
(Operator business name)
claims to be an operator of an excavation operation, as those terms are used in the Ordinance, in Tooele County, hereby joins and agrees to be a party to and bound by the foregoing Tolling Agreement.

As required by Paragraph 4 of the Tolling Agreement, all notices to the undersigned operator shall be sent to the following:

Operator Business Name: GENEVA ROCK PRODUCTS, INC.

Representative: BRENT SUMSION

Title: PROPERTY / ENVIRONMENTAL MANAGER

E-mail Address: bsumsion@clydeinc.com

Permanent Mailing Address: 730 N. 1500 W.


OREN. UT 84057

Business Number: 801-802-6933

Cellphone Number: 801-360-1344

Executed this 4TH day of FEBRUARY, 2019.

Operator: GENEVA ROCK PRODUCTS, INC.

Signature: 

Printed Name: JAMES D. GOLDING

Title: PRESIDENT

EXHIBIT A – GRAVEL OPERATOR JOINDER TO TOLLING AGREEMENT

STAKER + PARSON COMPANIES, who
(Operator business name)
claims to be an operator of an excavation operation, as those terms are used in the Ordinance, in
Tooele County, hereby joins and agrees to be a party to and bound by the foregoing Tolling
Agreement.

As required by Paragraph 4 of the Tolling Agreement, all notices to the undersigned
operator shall be sent to the following:

Operator Business Name: STAKER + PARSON COMPANIES

Representative: TRAVIS CANFIELD

Title: VICE PRESIDENT

E-mail Address: TRAVIS.CANFIELD@STAKERPARSON.COM

Permanent Mailing Address: _____

2350 Scent A 1900 WEST

OGDEN, UT 84401

Business Number: (801) 731-1111

Cellphone Number: (801) 648-6780

Executed this 5 day of FEBRUARY, 2019.

Operator: STAKER + PARSON COMPANIES

Signature: 

Printed Name: TRAVIS CANFIELD

Title: VICE PRESIDENT

EXHIBIT A – GRAVEL OPERATOR JOINDER TO TOLLING AGREEMENT

_____ ADOBE ROCK PRODUCTS LLC _____, who
(Operator business name)
claims to be an operator of an excavation operation, as those terms are used in the Ordinance, in Tooele County, hereby joins and agrees to be a party to and bound by the foregoing Tolling Agreement.

As required by Paragraph 4 of the Tolling Agreement, all notices to the undersigned operator shall be sent to the following:

Operator Business Name: Adobe Rock Products LLC

Representative: L. Derrick Jones

Title: CFO / Controller

E-mail Address: derrick@adoberock.com

Permanent Mailing Address: PO Box 1336, Grantsville, UT 84029

Business Number: (435) 830-6500

Cellphone Number: (435) 224-2174

Executed this 5th day of February, 2019.

Operator: Adobe Rock Products LLC

Signature: 

Printed Name: L. Derrick Jones

Title: CFO / Controller

EXHIBIT A – GRAVEL OPERATOR JOINDER TO TOLLING AGREEMENT

D+M Bauer LLC, who
(Operator business name)
claims to be an operator of an excavation operation, as those terms are used in the Ordinance, in Tooele County, hereby joins and agrees to be a party to and bound by the foregoing Tolling Agreement.

As required by Paragraph 4 of the Tolling Agreement, all notices to the undersigned operator shall be sent to the following:

Operator Business Name: D+M Bauer LLC
Representative: Drew Downs
Title: Manager - Owner
E-mail Address: drewdowns@gmail.com
Permanent Mailing Address: P.O. Box 37 Lehi, Utah 84043

Business Number: 801-910-6003

Cellphone Number: 801-910-6003

Executed this 5 day of February, 2019.

Operator: Drew Downs D+M Bauer LLC

Signature: Drew Downs

Printed Name: Drew Downs

Title: Owner

EXHIBIT A – GRAVEL OPERATOR JOINDER TO TOLLING AGREEMENT

Amesbro & Sons, who
(Operator business name)
claims to be an operator of an excavation operation, as those terms are used in the Ordinance, in Tooele County, hereby joins and agrees to be a party to and bound by the foregoing Tolling Agreement.

As required by Paragraph 4 of the Tolling Agreement, all notices to the undersigned operator shall be sent to the following:

Operator Business Name: Amesbro & Sons

Representative: Mark Brennan

Title: Director

E-mail Address: markbrennan@amesco.com

Permanent Mailing Address: 3737 W 2100 S

West Valley City, UT 84120

Business Number: 801-977-8012

Cellphone Number: 801-910-8030

Executed this 5th day of Feb., 2019.

Operator: Amesbro & Sons

Signature: Mark R Brennan

Printed Name: Mark R Brennan

Title: Director

EXHIBIT A – GRAVEL OPERATOR JOINDER TO TOLLING AGREEMENT

MORGAN ASPHALT, who
(Operator business name)
claims to be an operator of an excavation operation, as those terms are used in the Ordinance, in
Tooele County, hereby joins and agrees to be a party to and bound by the foregoing Tolling
Agreement.

As required by Paragraph 4 of the Tolling Agreement, all notices to the undersigned
operator shall be sent to the following:

Operator Business Name: MORGAN ASPHALT
Representative: MATT MORGAN
Title: PRESIDENT
E-mail Address: MATT@MORGANASPHALT.COM
Permanent Mailing Address: MORGAN ASPHALT
1970 N. REDWOOD RD
SLC UT 84116
Business Number: 801-595-0010
Cellphone Number: 801-381-2297

Executed this 5 day of FEB, 2019.

Operator: MORGAN ASPHALT

Signature: Matt Morgan

Printed Name: MATT MORGAN

Title: PRESIDENT

Received on 2/7/19
Caita Bowler

EXHIBIT A – GRAVEL OPERATOR JOINDER TO TOLLING AGREEMENT

Granite Construction Company, who
(Operator business name)
claims to be an operator of an excavation operation, as those terms are used in the Ordinance, in Tooele County, hereby joins and agrees to be a party to and bound by the foregoing Tolling Agreement.

As required by Paragraph 4 of the Tolling Agreement, all notices to the undersigned operator shall be sent to the following:

Operator Business Name: Granite Construction Company

Representative: Brad Sweet

Title: Resource Manager

E-mail Address: Brad.Sweet@gcinc.com

Permanent Mailing Address: _____

PO Box 30429

Salt Lake City UT 84130

Business Number: 801-526-6000

Cellphone Number: 801-831-6001

Executed this 6th day of February, 2019.

Operator: Granite Construction Company

Signature: 

Printed Name: Jason Klaumann

Title: Vice President-Utah Region Manager

Tooele County
Parcel ID: 05-033-0-0043

Received on 2/7/19
Caleb Rucley

EXHIBIT A – GRAVEL OPERATOR JOINDER TO TOLLING AGREEMENT

Stansbury Farms, LLC, who claims to be an operator of an excavation operation, as those terms are used in the Ordinance, in Tooele County, hereby joins and agrees to be a party to and bound by the foregoing Tolling Agreement.

As required by Paragraph 4 of the Tolling Agreement, all notices to the undersigned operator shall be sent to the following:

Operator Business Name: Stansbury Farms, LLC _____

Representative: Jesse Lassley _____

Title: Manager _____

E-mail Address: jesse@L4development.com _____

Permanent Mailing Address: P.O. Box 711820, Cottonwood Heights, Utah 84171_

Business Number: 801-733-7008 _____

Cellphone Number: 801-808-8530 _____

Executed this 5th day of February 2019.

Operator: Stansbury Farms, LLC _____

Tooele County Parcel Number 05-033-0-0043

Signature:  _____

Printed Name: Jesse Lassley _____

Title: Member Member _____

JRL

EXHIBIT A – GRAVEL OPERATOR JOINDER TO TOLLING AGREEMENT

Bolinder Resources, who
(Operator business name)
claims to be an operator of an excavation operation, as those terms are used in the Ordinance, in Tooele County, hereby joins and agrees to be a party to and bound by the foregoing Tolling Agreement.

As required by Paragraph 4 of the Tolling Agreement, all notices to the undersigned operator shall be sent to the following:

Operator Business Name: Bolinder Resources

Representative: Boone Bolinder

Title: CFO

E-mail Address: Boone@Bolinderresources.com

Permanent Mailing Address: _____

1830 W. Highway 112
Tooele VT 84074

Business Number: 435-843-1550

Cellphone Number: 435-830-6185

Executed this 7th day of February, 2019.

Operator: Bolinder Resources

Signature: 

Printed Name: Boone Bolinder

Title: CFO

EXHIBIT A – GRAVEL OPERATOR JOINDER TO TOLLING AGREEMENT

Kilgore Companies, LLC _____, who
(Operator business name)
claims to be an operator of an excavation operation, as those terms are used in the Ordinance, in Tooele County, hereby joins and agrees to be a party to and bound by the foregoing Tolling Agreement.

As required by Paragraph 4 of the Tolling Agreement, all notices to the undersigned operator shall be sent to the following:

Operator Business Name: Kilgore Contracting

Representative: Jason Kilgore

Title: President

E-mail Address: jason.kilgore@kilgorecompanies.com

Permanent Mailing Address: 7057 West 2100 South, Salt Lake City, UT 84128

Business Number: 801-250-0132

Cellphone Number: _____

Executed this 4 day of February, 2019.

Operator: Kilgore Companies

Signature: 

Printed Name: Jason Kilgore

Title: President