CITY OF MOAB
RESOLUTION #05-2018

A RESOLUTION APPROVING THE EASEMENT AGREEMENT FOR EMERGENCY AND CONSTRUCTION ACCESS TO PROPERTIES ALONG THE 200 SOUTH RIGHT-OF-WAY

WHEREAS, James and Valerie Byrnes acting on behalf of Byrnes Family Trust, located at 855 Wooden Deer Rd., Carbondale, CO 81623, as the “Owner” of record of 150 South 200 East, Moab, Utah, a .87 acre (37,897 square feet) parcel of land located in the C-2 (Commercial Residential Zone), requested an easement across the 200 South right-of-way for emergency and construction vehicle access to said property; and

WHEREAS, the City of Moab developed the 200 South right-of-way with a non-motorized path as part of the Mill Creek Flood Control and Parkway project; and

WHEREAS, those properties fronting on 200 South between 100 East and 200 East have restricted vehicular access along the 200 South right-of-way; and

WHEREAS, the City Attorney has drafted the easement agreement to formalize emergency and limited construction vehicle access to those properties; and

WHEREAS, the City of Moab feels it is in the best interest of these properties to have an alternative vehicular access for emergency services;

NOW, THEREFORE, be it resolved by the Moab City Council, with the adoption of Resolution #05-2018, hereby approves the easement agreement for emergency and construction access to properties along the 200 South right-of-way and the Council authorizes the Mayor to sign the Agreement.


SIGNED:

[Signature]
Mayor Pro Tem

ATTEST:

[Signature]
Rachel Stenta, Recorder
ACCESS EASEMENT AND AGREEMENT

THIS ACCESS EASEMENT AND AGREEMENT (Easement) is made and entered into as of the date(s) set forth below by and between the City of Moab (Grantor), and James R. Byrnes, Trustee, and Valerie R. Byrnes, Trustee, of the Byrnes Family Trust (Grantee). In consideration of the mutual promises and obligations contained herein, the receipt of which is hereby acknowledged, Grantor and Grantee agree as follows:

1. **Grant of Easement.** Grantor hereby grants to Grantee, its successors and assigns, without warranty a permanent easement in the NE ¼ of the SE ¼ of Section 35, T 25 S, R 21 E SLB&M, Grand County, Utah as follows:

   A 20 foot wide access easement for emergency use and construction use located within the right-of-way of 200 South Street of the Moab Townsite, Section 1, T26S, R21E, SLB&M, more particularly described as follows:

   Beginning at a point on the West right-of-way of 200 East Street, said point being North 00°17’00” East 35.00 feet from the Northeast corner of Block 3 of the Moab Townsite in section 1, Township 26 South, Range 21 East, Salt Lake Base and Meridian; and running Thence along the north boundary of the vacated portion of 200 South Street North 89°47’00” West 114.70 feet; thence with a curve having a radius of 69.49 feet, to the right with an arc length of 67.97 feet, (a chord bearing of North 61°59’00” West 65.29 feet); thence North 34°11’00” West 25.82 feet; thence with a curve having a radius of 23.00 feet, to the right with an arc length of 10.58 feet, (a chord bearing of North 21°00’04” West 10.49 feet); thence North 07°49’08” West 2.49 feet to a point on Grantee’s south parcel line; thence along said parcel line South 89°47’00” East 20.22 feet; thence with a curve having a radius of 3.00 feet, to the left with an arc length of 1.04 feet, (a chord bearing of South 24°13’29” East 1.04 feet); thence South 34°11’00” East 25.82 feet; thence with a curve having a radius of 50.0 feet, to the left with an arc length of 48.52 feet, (a chord bearing of South 61°59’00” East 46.64 feet); thence South 89°47’00” East 114.71 feet to the West bounds of 200 East Street; thence South 00°17’00” West 20.0 feet to the point of beginning.

   (Bearings are based on the centerline of 300 South Street; Bearings = N 89°47’ W).
2. **Purpose.** The Easement is granted for the purpose of installing and constructing road access for emergency vehicles and construction-related access to the parcel of Grantee, the description of which is attached as Exhibit 1 (Benefitted Parcel). The Easement shall not be used for general ingress/egress to the Benefitted Parcel. Grantee shall be responsible for upgrading the Easement with a hard surface, and shall properly construct the roadway so as to avoid damage to the existing non-motorized pathway within the Easement, and any adjacent improvements. All improvements within the Easement are subject to review and approval by the Grantor. Grantee shall be solely responsible for the maintenance of any improvements, structures, or equipment it constructs within the Easement.

3. **Non-exclusive Use; Removal of Encroachments.** Grantor expressly reserves and shall have the right to use (together with the public) the Easement in a manner that does not impair or harm the grant or use by Grantee. Neither party shall construct any buildings, structures, or other permanent improvements within the Easement that would substantially interfere with the use by the other party, and any such improvements or encroachments may be subject to removal without compensation.

4. **Restoration.** Upon completion of any repair or maintenance work contemplated by this Easement, Grantee agrees to promptly restore the surface to a condition equal or superior to that existing prior to any disturbance.

5. **Abandonment.** This Easement shall only be deemed abandoned upon lawful execution and recording of a written grant by Grantee conveying and abandoning this Easement.

6. **Binding in Perpetuity.** This Easement is irrevocable and shall bind the subject property in perpetuity, and all of the benefits and burdens of this Easement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the parties.

7. **Sole Agreement; Modifications.** This Easement constitutes the sole and complete agreement between the parties and no additional or different oral representation, promise or agreement shall be binding on any of the parties with respect to the subject matter of this instrument. No modification to this Easement shall be binding unless it is in writing and duly executed by both parties.

8. **Governing Law and Venue.** This Easement is governed by Utah law; the sole venue for any dispute arising from this Easement shall be the courts of Grand County, Utah.

9. **Remedies.** In the event of any breach of the provisions of this Easement, the non-breaching party may enforce same in an action for damages, specific performance, or both. In any such proceeding arising under this Easement the prevailing party shall be entitled to recover its reasonable attorney fees and court costs, in addition to any other remedies or relief.

This Easement is binding and effective as of the date(s) of execution by the parties, below.
Grantor:
City of Moab

By: ____________________________________
Mayor Pro Tempore

Attest: ____________________________________
By: ____________________________________
Rachel Stenta, City Recorder

Date: 1/9/09

Date: 1/9/98

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Moab/Byrnes Family Trust Easement
Signature Page, Contd.

Grantee:

By: James R. Byrnes, Trustee, Byrnes Family Trust

By: Valerie R. Byrnes, Trustee, Byrnes Family Trust

STATE OF UTAH (Colorado 090 )
COUNTY OF GRAND (Garfield 090 )

The foregoing Access Easement and Agreement was acknowledged and executed before me by James R. Byrnes and Valerie R. Byrnes, Trustees of the Byrnes Family Trust on the 5 day of January, 2018. Witness my hand and official seal. My commission expires:

February 6, 2018.

Attachment:
Exhibit 1 - Description of Benefitted Property

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