CITY OF MOAB RESOLUTION NO. 41-2019

A RESOLUTION AUTHORIZING THE CITY TO COMMENCE EMINENT DOMAIN PROCEEDINGS ACQUIRE A UTILITY EASEMENT ACROSS THE MOAB LODGING LLC PROPERTY IN CONJUNCTION WITH THE NORTH CORRIDOR WASTEWATER IMPROVEMENTS

The following findings describe the reasons for this resolution and explain its purpose.

a. The City has secured financing and it will undertake the construction of the North Corridor Wastewater Improvement Project (the Project) in late 2019.

b. The Project will extend wastewater service to properties in the north area of the City of Moab via a sewer pipeline and related improvements, which will convey wastewater to the City Water Reclamation Facility.

c. The City has undertaken to negotiate for the acquisition of a utility easements (for construction and permanent placement of a pipeline) over and across the lands of Moab Lodging, LLC (Owner), located at 1515 North Main Street, Tax Parcel No. 01-126-0005 (the Property).

d. The easements are necessary for the pipeline and related improvements to provide sanitary sewer service to a number of properties in the north area of the City of Moab.

e. On May 22, 2019 the City provided to the Owner correspondence enclosing proposed utility easements across the Property and requesting the grant of same pursuant to the terms of the Amendment to the Pre-Annexation Agreement, dated April 8, 2008, between the City and the Owner’s predecessor in title.

f. On August 7, 2019 the City provided to the Owner correspondence containing: i) the Eminent Domain Disclosure required by Utah law; ii) a copy of appraisal for the Property; iii) a copy of the proposed utility easements (for construction and permanent access) across the Property; and iv) an offer to pay the appraised value of $37,600 in exchange for the easements. The easements contained the precise metes and bounds descriptions of the lands needed for the public improvements.

g. On August 15, 2019 the City notified Owner that it would be considering a resolution to authorize eminent domain at the August 27, 2019 meeting, and that the Owner has the right to appear and be heard with respect to the acquisition.

h. All conditions precedent to commencing eminent domain, as provided by U.C.A. § 78B-6-504, 505, and other applicable law, have been satisfied.
Now therefore, the City of Moab resolves as follows:

1. The taking of real property for the construction of public sanitary sewer facilities is a use authorized by law.

2. The acquisition of the easements across the Property is necessary for the completion of the Project.

3. The City is prepared to timely commence construction of the Project by the end of 2019 or the first quarter of 2020, and it will use all of the lands encompassed within the easements sought to be acquired.

4. The City has negotiated in good faith and will continue to do so with the Owner.

5. The Owner has been given the opportunity to appear and address the Council on this subject. The Council considered the comments of the Owner, if any.

6. The Council concludes that the acquisition is reasonable and necessary for the completion of the Project.

7. The City is hereby authorized to commence eminent domain proceedings to acquire easements across the Owner’s Property.

PASSED AND APPROVED by a majority of the City Council August 27, 2019.

By:  
Emily S. Niehaus, Mayor  
6-27-19  
Date

Attest:  
By:  
Sommar Johnson, Recorder  
8-27-19  
Date