

**RESOLUTION NO. 2022-23**

**A RESOLUTION OF MOAB CITY COUNCIL  
ADOPTING THE EXTENSION OF A  
PROTECTION STRIP DEDICATION**

**RECITALS**

WHEREAS the City of Moab (“the City”) has reviewed the Protection Strip Dedication agreement, recorded June 11, 2010, between the parties, Grantors Dennis and Patricia Byrd, and Moab City.

WHEREAS the City has determined the Protection Strip Dedication agreement, attached as Exhibit A, should be extended for twelve (12) years, until 2034.

WHEREAS the City desires to approve the Extension of Protection Strip Dedication, attached as Exhibit B, which incorporates the language of Exhibit A and with an extension for twelve years from the date the agreement is recorded with the Grand County Recorder.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF  
MOAB:**

**Section 1. Extension of Protection Strip Dedication.** The attached Extension of Protection Strip Dedication (“the Extension”) is adopted by the City and attached as Exhibit B.

**Section 2. Recordation.** City staff is instructed to file the Extension with the City Recorder and Grand County Recorder.

**Section 3. Effective Date.** This Resolution hereby adopted is effective August 23, 2022, and the Extension is effective upon written execution by both parties and recordation.

[execution on following page]

**ADOPTED** this 23<sup>rd</sup> day of August 2022.

CITY OF MOAB

By:

  
JOETTE LANGIANESE  
Mayor

ATTEST

  
  
Sommar Johnson, City Recorder

8.23.22  
Date

Voting:

Council Member Taylor	voting aye
Council Member Wojciechowski	voting aye
Council Member Jones	voting aye
Council Member Derasary	voting nay

**EXHIBIT A**  
Protection Strip Dedication  
June 11, 2010

# EXHIBIT A

## PROTECTION STRIP DEDICATION

In exchange for valuable consideration, the sufficiency of which is acknowledged, Dennis E. and Patricia Byrd ("Grantor") hereby executes and records this Protection Strip Dedication as follows.

### I. RECITALS

- a. Grantor is the owner of a tract of land in Grand County, Utah, commonly known as the Preserve Subdivision (the "Subdivision"), shown in Exhibit A and more particularly described in Exhibit B. The Subdivision has been approved by the City of Moab ("City").
- b. Grantor will construct certain public improvements, including Byrd Avenue, which will benefit the Subdivision, but which may benefit adjacent parcels which are undeveloped at this time.
- c. This Protection Strip Dedication is intended to bind the properties described as a covenant running with the land, and provide a mechanism by which Grantor may be reimbursed for a portion of construction costs for road improvements when or if adjacent properties develop.

### II. DEDICATION

1. Incorporation of Recitals. The above Recitals are incorporated by reference.
2. Creation of Protection Strips. Grantor hereby creates and establishes TRACT A and TRACT B (as depicted in Exhibit A), according to the official plat of the Preserve Subdivision as tracts subject to this Protection Strip Dedication. Grantor shall retain ownership of both tracts, subject to the requirements herein. No other person shall be entitled to use or otherwise occupy these tracts, except as set forth below.
3. Conveyance of Protection Strips. Grantor hereby agrees to convey, via special warranty deed, all or a portion of Tract A or Tract B to the owner(s) of any adjacent parcel ("Adjacent Owner") for the purposes of creating legal access to a public road and/or for connection to public utilities within public road rights-of-way, upon payment of the sum specified in this Dedication. The Adjacent Owner shall have the right, but not the obligation, to purchase all or a portion of Tract A or Tract B, subject to the provisions of this Dedication. In exchange for the conveyance of a deed to all or a portion of Tract A or Tract B, the Adjacent Owner shall pay to the Grantor a sum equal to the following defined values: a) the Tract Value, plus b) the Proportionate Road Cost.
  - a. The Tract Value shall be defined as the fair market value of the area to be conveyed in Tract A or Tract B, per square foot, based upon the price per square foot of the most recent lot sale in the Subdivision (excluding the sale of a completed home and lot).

Ent 495137 Bk 761 Pg 102 - 106  
Date: 11-JUN-2010 2:25:44PM  
Fee: None  
Filed By: JAC  
MERLENE MOSHER DALTON, Recorder  
GRAND COUNTY CORPORATION  
For: MOAB CITY

b. The Proportionate Road Cost shall be defined to be a value, the numerator of which is the distance in feet of the street frontage of the tract to be conveyed, and the denominator of which shall be 660 linear feet (the length of Byrd Avenue between the Subdivision entrance and the boundary of Lot 53B) multiplied by the total cost for paving, curb, gutter, and sidewalk for that segment of Byrd Avenue, multiplied by one half. The current estimate for the total cost for paving, curb, gutter and sidewalk for that segment of Byrd Avenue is \$71,800, but actual costs will be used to calculate the Proportionate Road Cost. Added to that figure shall be interest at the rate of five percent (5%) per annum from the date of recording, above, until the date of the sales closing, which sum shall equal the Proportionate Road Cost.

4. Calculation of Sale Price, Disputes. Grantor shall provide all calculations and supporting documents for the determination of the Tract Value and the Proportionate Road Cost to the Adjacent Owner prior closing. In the event of any dispute as to the sales price, the parties shall each submit their calculations and supporting documents to the City Manager of the City of Moab for determination, and the City Manager's decision shall be final and binding.

5. Duration, Vesting in City. This Dedication shall continue for a period of twelve (12) years from the date of recording, following which it will automatically terminate, unless the duration is extended in writing by Grantor and the City prior to the termination date. In the event that all or any portion of Tract A or Tract B has not been conveyed pursuant to this Dedication to one or more of the Adjacent Owners prior to the termination date, then the balance of those tracts shall immediately be deemed to vest in, and be owned in fee simple, by the City of Moab.

6. Maintenance. Grantor shall reasonably maintain Tract A and Tract B for the duration of its ownership of same. Reasonable maintenance shall include installation of landscaping and keeping the tracts free of weeds, debris, or other obstructions.

7. Covenant Running With Lands. This Dedication shall run with the land and be binding upon the Grantor, its successors, and assigns in title, and shall operate for the use benefit of the Adjacent Owners and, if applicable, the City.

8. Release. This Dedication is entered into as an accommodation by the City of Moab with respect to development costs incurred by the Grantor incident to the subdivision process. As such, Grantor hereby releases and holds the City harmless with respect to any claim, damages, losses, or liabilities, however denominated, arising from this Dedication or any act or omission of the City, its agents, officials, or employees, in the administration of same. This Dedication shall not be construed to be a waiver of any statutory or other immunities held by the City as a governmental entity.

9. Governing Law, Venue. Utah law governs this Dedication. Venue for any dispute arising from this document shall be in the courts of Grand County, Utah.

10. Enforcement. In the event that any party bound by this Dedication should fail or refuse to carry out its obligations, or should a dispute arise concerning the interpretation of this Dedication, the affected person may obtain specific performance, together with actual damages resulting from any breach. In any dispute arising from this Dedication the prevailing party shall be entitled to recover its reasonable attorney fees and court costs, in addition to any other relief.

Grantor has executed this Dedication as of the date set forth below.

GRANTOR:

Dennis E. Byrd Jr  
Dennis E. Byrd, Jr

Patricia B. Byrd  
Patricia B. Byrd

STATE OF UTAH     )  
                                  )s.s.  
COUNTY OF GRAND )

The foregoing Dedication was executed before me by Dennis E. Byrd Jr Patricia Byrd <sup>Dennis E. Byrd Jr Patricia Byrd</sup> ~~Brenda Kerby~~ <sup>BK</sup> this 21 day of April, 2010. Witness my hand and official seal. My commission expires: 11.17.2012.

Brenda Kerby  
Notary Public, State of Utah

Approved by the City of Moab as set forth below.

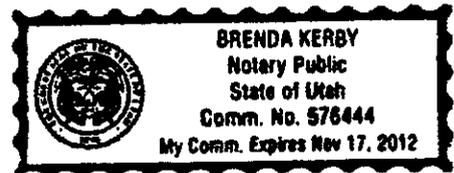
CITY OF MOAB:

David Sakrison  
Mayor David Sakrison

Attest:

Rachel R. Ellison  
Rachel R. Ellison, City Recorder

4-15-2010  
Date





## Exhibit B

### Legal Description of Property Included in Preserve Subdivision, Phase I

PARCEL OF LAND WITHIN THE SE ¼ OF SECTION 35, T 25 S, R 21 E, SLM, MOAB CITY, GRAND COUNTY, UTAH MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF THE SE¼ OF SECTION 35, SAID POINT BEARS S 00°31'11" W 594.00 FT. FROM THE EAST ¼ CORNER OF SECTION 35, T 25 S, R 21 E, SLM, AND PROCEEDING THENCE WITH THE EAST LINE OF SAID SECTION 35 S 00°31'11" W 107.81 FT., THENCE S 89°55'00"W 660.27 FT., THENCE N 00°31'11" E 1.00 FT., THENCE N 89°53'12"E 23.49 FT., THENCE N 00°00'16"E 184.30 FT., TO A CORNER, THENCE S 85°25'32"W 21.86 FT. TO A CORNER, THENCE N 00°31'00"E 188.19 FT. TO A CORNER, THENCE N 89°55'00" E 330.10 FT. TO A CORNER, THENCE S 00°31'00"W 264.00 FT., TO A CORNER, THENCE N 89°55'00"E 330.10 FT., TO THE POINT OF BEGINNING AND CONTAINING 3.54 ACRES MORE OR LESS.

BEARINGS ARE BASED ON THE EAST LINE OF THE SE¼ OF SECTION 35 (BEARING FROM VALLEY CONTROL DATUM=S 00°31'11"W).

**EXHIBIT B**  
Extension of Protection Strip Dedication  
August 23, 2022

## EXTENSION OF PROTECTION STRIP DEDICATION

### RECITALS

WHEREAS the Protection Strip Dedication (“**Dedication**”) was recorded by the Grand County Recorder on June 11, 2010, as executed between Moab City and the Grantors Dennis and Patricia Byrd (the Parties);

WHEREAS the Dedication provides it will continue for twelve (12) years from the date of the recording, following which it will automatically terminate unless the duration is extended in writing by Grantor and Moab City prior to the termination date;

WHEREAS the automatic termination date was June 11, 2022;

WHEREAS Moab City and the Grantors agreed to extend the Dedication for ninety (90) days from the date of termination until September 8, 2022, to discuss options to benefit both parties;

WHEREAS Moab City and the Grantors met on August 10, 2022, to discuss the mutual benefits and promises in the Dedication;

WHEREAS the Dedication benefits both parties, if extended, because Moab City preserves connection to public utilities and roadway access and Grantors may pursue a calculated reimbursement for the Preserve Subdivision’s road construction costs from future adjacent property owners;

WHEREAS the original Property Strip Dedication is attached as Exhibit A which shows the complete Dedication agreement with the termination date and extension language in paragraph 5; and

NOW, THEREFORE, in consideration of the mutual promises and covenants herein, the receipt and sufficiency of which are hereby acknowledged, the Parties covenant and agree as follows:

### AGREEMENT

1. **Property Strip Dedication.** The parties, Moab City and Grantors Dennis and Patricia Byrd, agree to extend the Dedication for twelve (12) years.
2. **Duration, Vesting in City.** In the event that all or any portion of Tract A or Tract B has not been conveyed pursuant to this extended Dedication to one or more of the Adjacent Owners prior to new termination date, then the balance of those tracts shall immediately be deemed to vest in, and be owned in fee simple, by Moab City.

[Signatures on following page – remainder of page left intentionally blank]

Grantors have executed this extension to this Dedication for twelve (12) years as of the date set forth below.

**GRANTORS:**

\_\_\_\_\_  
**DENNIS E. BYRD, JR.**

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**PATRICIA B. BYRD**

\_\_\_\_\_  
**DATE**

STATE OF UTAH            )  
                                  )S.S.  
COUNTY OF GRAND        )

The foregoing Extension of Dedication was executed before by \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2022. Witness my hand and official seal. My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public, State of Utah

Approved by the City of Moab as set forth below.

**CITY OF MOAB:**

\_\_\_\_\_  
Mayor Joette Langianese

Attest:

\_\_\_\_\_  
Sommar Johnson, City Recorder

\_\_\_\_\_  
Date