



**TOQUERVILLE CITY
RESOLUTION #2019.XX EMINENT DOMAIN**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TOQUERVILLE, UTAH, AUTHORIZING THE FILING OF AN EMINENT DOMAIN ACTION TO ACQUIRE REAL PROPERTY FOR THE PURPOSE OF BUILDING A BYPASS ROAD FOR HIGHWAY 17.

WHEREAS, Toquerville City (the “City”) intends to build a bypass road for Highway 17 (the “Bypass Road”) to allow for more efficient flow of traffic along the East bench of Washington County and to provide secondary access for numerous properties on the West side of the City; and

WHEREAS, the Toquerville City Council has budgeted monies for the acquisition of the necessary property and rights-of-way for the Bypass Road; and

WHEREAS, the City intends to commence construction of the Bypass Road in phases and based upon its Transportation Master Plan and Study conducted by Jones & DeMille Engineering, have determined that at least a portion of the Bypass Road needs to be constructed and functional by 2025.

WHEREAS, the City has obtained the property and rights-of-way to construct the Bypass Road, with the exception a portion on the North end of the proposed road that runs thru parcels T-103, T-3-0-34-3000, T-3-0-27-321, and T-3-0-34-140 owned by Lowe Land TK, LLC and which is described more particularly as follows:

A 150.00 FOOT WIDE ROADWAY PARCEL, DESCRIBED AS FOLLOWS: 75 FEET ON BOTH SIDES OF THE FOLLOWING CENTERLINE - BEGINNING AT A POINT LOCATED S00°07'26"W ALONG THE SECTION LINE 1334.83 FEET AND N89°14'52"W ALONG THE EAST-WEST 1/16 SECTION LINE 1570.16 FEET FROM THE NORTHEAST CORNER OF SECTION 3, TOWNSHIP 41 SOUTH, RANGE 13 WEST, SALT LAKE BASE AND MERIDIAN; THENCE N13°40'27"E DEPARTING SAID EAST-WEST 1/16 SECTION LINE, 194.68 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF A 1500.00 FOOT RADIUS CURVE TO THE LEFT 1189.30 FEET (CHORD BEARS: N09°02'23"W 1158.40 FEET) TO A POINT ON THE NORTH SECTION LINE OF SECTION 3 AND ENTERING SECTION 34, T40S, R13W, SLB&M; (SAID POINT IS LOCATED N89°21'52"W ALONG THE SECTION LINE 1709.00' FROM THE SOUTHEAST CORNER OF SAID SECTION 34); THENCE RUNNING NORTHERLY THE FOLLOWING SEVEN COURSES: THENCE NORTHWESTERLY ALONG THE ARC OF A 1500.00 FOOT RADIUS COMPOUND CURVE TO THE LEFT 294.81 FEET (CHORD BEARS: N37°23'03"W 294.33 FEET); THENCE N43°00'52"W 1322.39 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF A 1500.00 FOOT RADIUS CURVE TO THE RIGHT 613.92 FEET (CHORD BEARS: N31°17'22"W 609.65 FEET); THENCE N19°33'52"W 550.85 FEET; THENCE NORTHERLY ALONG THE ARC OF A 2000.00 FOOT RADIUS CURVE TO THE RIGHT 1150.16 FEET (CHORD BEARS: N03°05'23"W 1134.37 FEET); THENCE N13°23'06"E 1619.67 FEET; THENCE NORTHERLY ALONG THE ARC OF A 2000.00 FOOT RADIUS CURVE TO THE LEFT 1071.63 FEET (CHORD BEARS: N01°57'54"W 1058.86 FEET, ARC CROSSES INTO SECTION 27 AT 304.57 FEET ALONG THE ARC, SAID CROSSING IS

LOCATED S89°51'09"E ALONG THE SECTION LINE 2333.09' FROM THE SOUTHWEST CORNER OF SECTION 27, T40S, R13W, SLB&M) TO THE SOUTH RIGHT-OF-WAY LINE OF UDOT HIGHWAY SR-17 BEING THE POINT OF ENDING.("Subject Parcel").

WHEREAS, an appraisal has been made of the Subject Parcel by Daniel Johnson, MAI, SRA of Johnson Appraisal, Inc. on behalf of the City; and

WHEREAS, Utah Code Ann. §78B-6-504 authorizes a municipality, upon the payment of just compensation, to take real property by eminent domain for uses authorized by law, which include roads or streets for public vehicular use and bicycle paths and sidewalks adjacent to paved roads; and

WHEREAS, construction of the Bypass Road and use of the Subject Parcel sought to be condemned will commence as soon as possible following the initiation of an eminent domain proceeding and a grant of occupancy for the Subject Parcel; and

WHEREAS, the Subject Parcel sought to be acquired is not already appropriated to some other public use; and

WHEREAS, before taking a final vote to approve the filing of an eminent domain action, the Toquerville City Council provided written notice to the owner of the property to be taken of the public meeting of the Toquerville City Council at which a vote on the proposed taking was expected to occur and allowed the property owner the opportunity to be heard on the proposed taking; and

WHEREAS, such notice was mailed to the owner's address as shown on the records of the Washington County Assessor's office at least ten (10) business days before the public meeting;

NOW THEREFORE, BE IT RESOLVED by the Toquerville City Council as follows:

1. That, having provided notice as required by law to the property owner and having allowed the owner the opportunity to be heard on the proposed taking, Toquerville City staff and legal counsel is hereby authorized to file an eminent domain action to acquire the Subject Parcel for the purpose of utilizing it as part of the City's planned Bypass Road. The City Council finds that construction of the Bypass Road is a use authorized by the law, the taking of the Subject Parcel is necessary for the use, construction and use of all property sought to be condemned will commence within a reasonable time, and the Subject Property is not already appropriated to some public use and there is no "more necessary public use" affecting this property.

2. That Toquerville City staff and legal counsel are hereby authorized to seek an order from the court for immediate occupancy of the Subject Parcel in order to take immediate possession and use of the Subject Parcel for the purposes set forth herein.

3. That Toquerville City staff and legal counsel are further authorized to complete all necessary actions and steps which are conditions precedent to the initiation of the eminent domain action authorized herein.

ADOPTED BY THE TOQUERVILLE CITY COUNCIL, STATE OF UTAH ON THIS ____ DAY OF JANUARY 2019 ON THE FOLLOWING VOTE:

Councilperson: Keen Ellsworth
Ty Bringhurst
Paul Heideman
Justin Sip
Alex Chamberlain

AYE__NAE__ABSTAIN__ ABSENT__
AYE__NAE__ABSTAIN__ ABSENT__
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Approved By: _____
Lynn Chamberlain, Mayor

Attested By: _____
Dana M. McKim, City Recorder

DRAFT