MIDVALE CITY, UTAH
RESOLUTION 2019-R-41

A RESOLUTION APPROVING THE FIRST AMENDMENT TO THE EASEMENT AGREEMENT FOR THE CHG PROJECT, MIDVALE, UTAH

WHEREAS, pursuant to Section 10-9a-102 (2) of the Utah State Code, the City is authorized as follows: “To accomplish the purposes of this chapter, municipalities may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that they consider necessary or appropriate for the use and development of land within the municipality, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing uses, density, open spaces, structures, buildings, energy efficiency, light and air, air quality, transportation and public or alternative transportation, infrastructure, street and building orientation and width requirements, public facilities, and height and location of vegetation, trees, and landscaping, unless expressly prohibited by law”; and

WHEREAS, due to the unique circumstances involved in the development of the Midvale Slag Superfund Site, the City has found it necessary and beneficial to the Property Owner and the City to enter into a Development Agreement detailing improvements to be installed by all parties, time frames in which they must be completed, and limits to the cost of those improvements; and

WHEREAS, the property for the project includes perpetual public open space easements that will be improved and owned and maintained by the property owner, which specifics are addressed in an Easement Agreement; and

WHEREAS, said Easement Agreement was entered into on October 20, 2015 for the CHG Project between Midvale City Corporation and Arbor Gardner Bingham Holdings LC; recorded as Entry #12159054, Book 10374, Pages 67-77 in the Salt Lake County Recorder’s Office; and

WHEREAS, Arbor Gardner Bingham Junction Office 4, LC, a Utah limited liability company and Arbor Gardner Bingham Junction Office 5, LC, a Utah limited liability company are the current successors in interest to the original grantor under the Easement Agreement and, in accordance with Section 6.2 of the Easement Agreement, are subject to the Easement Agreement; and

WHEREAS, since said Easement Agreement was recorded, it has been determined that specific proposed developments require the relocation of some of the open space areas, requiring an amendment to the Easement Agreement; and
WHEREAS, both parties have negotiated such an amendment to the agreement and, as of the date of this Resolution, agree to enter into said first amended agreement; and

WHEREAS, the City Council has thoroughly reviewed said First Amendment to the Easement Agreement and agrees that entering into such agreement will help further the development of the area and maintain the required open space areas.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MIDVALE CITY, STATE OF UTAH, AS FOLLOWS:

Section 1. The Midvale City Council has thoroughly reviewed the attached First Amendment to the Easement Agreement for the CHG Project between Midvale City Corporation and Arbor Gardner Bingham Junction Holdings, LC.

Section 2. The Midvale City Council, through its understanding of the development challenges associated with the development of the CHG property and its expectations for the public open space areas believe it is in the best interest of the Property Owner and the City to enter into such Easement Agreement.

Section 3. The Midvale City Council on this date does hereby authorize the Mayor to enter into the attached agreement on behalf of the City.

PASSED AND APPROVED this 27th day of August, 2019.

[Signature]
Robert M. Hale, Mayor

ATTEST:

[Signature]
Rori Andreason, MMC
City Recorder

Voting by City Council

<table>
<thead>
<tr>
<th></th>
<th>“Aye”</th>
<th>“Nay”</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quinn Sperry</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Paul Glover</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Paul Hunt</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Bryant Brown</td>
<td>✓</td>
<td></td>
</tr>
<tr>
<td>Dustin Gettel</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Resolution 2019-R-41

Page 2 of 2
When recorded, return to:

Midvale City
7505 S. Holden Street
Midvale City, UT 84047

FIRST AMENDMENT TO THE EASEMENT AGREEMENT FOR THE CHG PROJECT
MIDVALE CITY, UTAH

THIS AMENDMENT TO THE EASEMENT AGREEMENT ("Amendment") is entered into as of this 4th day of September 2019, between Arbor Gardner Bingham Junction Office 4, LC, a Utah limited liability company and Arbor Gardner Bingham Junction Office 5, LC, a Utah limited liability company (collectively referred to as "Owners"), and Midvale City Corporation, a Utah municipal corporation ("Midvale" or "City"). Owners and City are sometimes referred to in this Amendment as a "Party" and collectively as the "Parties."

RECITALS

A. The City entered into a certain Easement Agreement for the CHG Project within the Junction at Midvale Master Planned Development Midvale City, Utah dated October 20, 2015 (the "Easement Agreement") with Arbor Gardner Bingham Junction Holdings, LC in conjunction with the development of certain real property commonly referred to as the CHG Project, which is a portion of the Junction at Midvale Project, located in Midvale City, Utah. The Easement Agreement was agreed upon and signed by all parties and recorded as Entry #12159054, Book 10374, Pages 67-77 in the Salt Lake County Recorder’s Office; and

B. Owners are the current successors in interest to the original grantor under the Easement Agreement and, in accordance with Section 6.2 of the Easement Agreement, are subject to the Easement Agreement; and

C. Since that time, refinements have been made in the overall development layout within the CHG Project and, as such, Owners and City find it necessary to amend the location of a portion of the easement; and

D. City and Owners believe that it is in the Parties’ best interests to amend the Easement Agreement in the manner set forth in this First Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Developer and City do hereby amend the Easement Agreement as follows:

FIRST AMENDMENT TO THE EASEMENT AGREEMENT FOR THE CHG PROJECT
MIDVALE CITY, UTAH

Page 1 of 5
1. The property covered by this Amendment is more fully described in Exhibit A, attached hereto.

2. Recital B. ("Amended Plat") is hereby amended and restated in its entirety as follows:

   "The Property constitutes Lots 1 & 2 of the View 72 Retail Subdivision 3rd Amended recorded with the County Recorder for Salt Lake County, Utah on July 27, 2015 as Entry No. 12099886 in Book 2015P at Page 165, a copy of which is attached hereto as Exhibit B, and Lot 3 of the View 72 Retail Subdivision 4th Amended recorded with the County Recorder for Salt Lake County, Utah on September 20, 2019 as Entry No. [redacted] in Book 2019 at Page [redacted], a copy of which is attached hereto as Exhibit C (together with Exhibit B the "Amended Plat")."

3. The View 72 Retail Subdivision 4th Amended plat, attached to this document as Exhibit B, shall be attached to the Easement Agreement as Exhibit C.

4. All other conditions and terms in the original Easement Agreement for the CHG Project shall remain the same.

   IN WITNESS WHEREOF, this First Amendment to the Easement Agreement has been executed by Midvale City Corporation, acting by and through the Midvale City Council, and by duly authorized representatives of Owners as of the date first set forth above.

   [signature and acknowledgment pages follow]
CITY:

MIDVALE CITY CORPORATION

By: Robert M. Hale, Mayor

ATTEST:

Rori L. Anderson, MMC
Shelly Reed
City Recorder
Deputy

APPROVED AS TO FORM:

Lisa A. Gardner
City Attorney

STATE OF UTAH
COUNTY OF SALT LAKE

On the 6th day of September, 2019, personally appeared before me Robert M. Hale, who being by me duly sworn did say he is the Mayor of Midvale City Corporation, and that the within and foregoing instrument was signed on behalf of such Corporation.

Shelly Reed
Notary Public
Residing at: SL County

My Commission Expires:

1/10/2021

FIRST AMENDMENT TO THE EASEMENT AGREEMENT FOR THE CHG PROJECT
MIDVALE CITY, UTAH

Page 3 of 5
OWNER:

Arbor Gardner Bingham Junction Office 4, LC, a Utah limited liability company

By: [Signature]
Name: [Signature]
Its: [Signature]

STATE OF UTAH )
: ss
COUNTY OF SALT LAKE )

On the 24th day of AUGUST, 2019, personally appeared before me
CHRISTIAN GARDNER, who being by me duly sworn did say he/she is the
MANAGER of Arbor Gardner Bingham Junction Office 4, LC, a Utah limited liability company, and that he/she had signed the within and foregoing instrument on behalf of such limited liability company.

[Signature]
Notary Public
Residing at: DAVEY COUNTY, UT

My Commission Expires: 10.16.20

NOTARY SIGNATURE AND SEAL

FIRST AMENDMENT TO THE EASEMENT AGREEMENT FOR THE CHG PROJECT
MIDVALE CITY, UTAH

Page 4 of 5
OWNER:

Arbor Gardner Bingham Junction Office 5, LC, a Utah limited liability company

By: 
Name: 
Its: 

STATE OF UTAH )

COUNTY OF SALT LAKE )

On the 29th day of AUGUST, 2019, personally appeared before me CHRISTIAN GARDNER, who being by me duly sworn did say he/she is the MANAGER of Arbor Gardner Bingham Junction Office 5, LC, a Utah limited liability company, and that he/she had signed the within and foregoing instrument on behalf of such limited liability company.

Notary Public
Residing at: DAVIS COUNTY, UT

My Commission Expires: 10/16/20

NOTARY SIGNATURE AND SEAL

FIRST AMENDMENT TO THE EASEMENT AGREEMENT FOR THE CHG PROJECT
MIDVALE CITY, UTAH

Page 5 of 5
EXHIBIT A

Legal Description of Property

That certain real property located in Salt Lake County, Utah more particularly described as follows:

All of Lot 1, 2, 3, & 4 of the “View 72 Retail Subdivision 3rd Amended” recorded with the County Recorder for Sale Lake County, Utah on July 27, 2015 as Entry No. 12099886 in Book 2015P at Page 165, containing a total of 564,922 square feet or 12.969 acres.
EXHIBIT B

View 72 Retail Subdivision 4th Amended plat

[attachment follows]