

**MIDVALE CITY, UTAH
RESOLUTION 2020-R-31**

**A RESOLUTION APPROVING THE FIRST AMENDMENT TO
AMENDED AND RESTATED MASTER DEVELOPMENT AGREEMENT FOR
JORDAN BLUFFS PROJECT**

WHEREAS, pursuant to Utah Code Annotated Section 10-9a-102 (2), the City is authorized to “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 Sharon Steel Superfund Site, the City found it necessary and beneficial for the City to enter into an Amended and Restated Master Development Agreement with the Property Owner (“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, said Agreement was entered into on April 5, 2019 for the Jordan Bluffs Project between Midvale City Corporation and Gardner Jordan Bluffs, LC; recorded as Entry #12963264, Book 10767, Page 3334-3359 in the Salt Lake County Recorder’s Office; and said development plan is currently being constructed; and

WHEREAS, since the Agreement was recorded, it has been determined that modifications to the zoning ordinance require amendments to the 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 Agreement and agrees that entering into such amended agreement will help to further the development of the overall Jordan Bluffs Master Plan without compromising the benefits received by the City.

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

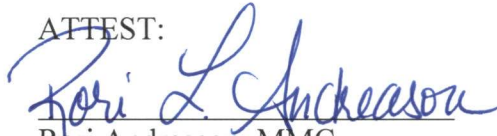
Section 1. The Midvale City Council has thoroughly reviewed the attached First Amendment to Amended and Restated Master Development Agreement for Jordan Bluffs Project.

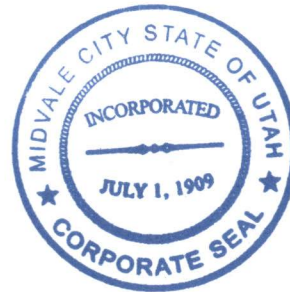
Section 2. The Midvale City Council, through its understanding of the development challenges associated with the development of the Jordan Bluffs property and its expectations for the long-term project outcomes believe it is in the best interest of the City to enter into such Development Agreement with the Property Owner.

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

PASSED AND APPROVED this 21st day of July 2020.


Robert M. Hale, Mayor

ATTEST:

Rori Andreason, MMC
City Recorder



Voting by City Council	"Aye"	"Nay"
Quinn Sperry	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Paul Glover	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Heidi Robinson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bryant Brown	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dustin Gettel	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**FIRST AMENDMENT TO
AMENDED AND RESTATED MASTER DEVELOPMENT AGREEMENT
FOR
JORDAN BLUFFS PROJECT**

THIS FIRST AMENDMENT TO AMENDED AND RESTATED MASTER DEVELOPMENT AGREEMENT (this "**Amendment**") is made as of 24 August 2020, 2020, by and among Midvale City, a political subdivision of the State of Utah (the "**City**"), and Gardner Jordan Bluffs, L.C., a Utah limited liability company (the "**Master Developer**"), sometimes referred to as a "**Party**" or collectively as the "**Parties**".

RECITALS

A. WHEREAS, Master Developer and the City entered into that certain Amended and Restated Master Development Agreement for Jordan Bluffs Project dated April 5, 2019 (as amended, the "**Development Agreement**") which relates to certain real property located in Midvale, Utah, and which is more particularly described in the Development Agreement (the "**Property**").

B. WHEREAS, on or around the date hereof, the Jordan Bluffs (JB) Zone as set forth in §17-7-10 of the Midvale City Code is being amended (the "**JB Zone**").

C. WHEREAS, Master Developer and the City desire to enter into this Amendment to modify the Development Agreement to be consistent with the provisions of certain changes to the JB Zone and to make certain other amendments/agreements as more fully set forth herein.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

1. Incorporation of Recitals; Defined Terms. The Recitals set forth above are incorporated herein by reference. Capitalized terms used but not otherwise defined herein shall have their respective meanings set forth in the Development Agreement.
2. Amendment to Exhibit "B". Exhibit "B" attached to the Development Agreement is hereby deleted in its entirety and replaced with Exhibit "B" attached to this Amendment.
3. Amendment to Exhibit "E". Exhibit "E" attached to the Development Agreement is hereby deleted in its entirety and replaced with Exhibit "E" attached to this Amendment.
4. Amendment to Exhibit "F". Exhibit "F" attached to the Development Agreement is hereby deleted in its entirety and replaced with Exhibit "F" attached to this Amendment.

5. Amendment to Section 3.3.2. Section 3.3.2 of the Development Agreement is hereby amended and restated in its entirety as follows:

“3.3.2 Trail System Outside Central Community Park. Master Developer agrees to provide and construct, at no cost to the City, a minimum of three (3) trail connections through the Gardner Property to the Jordan River Parkway as generally depicted on Exhibit “F”. The Parties acknowledge and agree that the location of such trail connections will be defined as part of the approval process for the adjacent Pod areas for the purpose of providing a separated walkway for public access to the Jordan River Parkway. The trail connections shall comply with the following: (1) be constructed with a 10-foot wide concrete or asphalt walkway surface, with pedestrian-scaled lights; (2) have a minimum of 10 feet of landscaping on each side of the walkway, which landscaping can be part of required setbacks and development landscape features; (3) such concrete or asphalt walkway and lighting shall have a perpetual public use easement and will be maintained by the City. The trail connections shall be required to be completed in conjunction with the completion of the first project phase on the adjacent pod and the easement shall be conveyed to the City at such time as each trail section is completed, but, at Master Developer’s election, may be completed prior to this time. The easements for the trail connections shall be subject to a restriction that such trail connections will only be used as a trail or open space and may only be relocated if agreed to by the City and the owner of the real property on which such trail connection is located.”

6. Amendment to Section 3.3.3. The following is hereby added to the end of Section 3.3.3 of the Development Agreement:

“Notwithstanding the foregoing to the contrary, the City acknowledges and agrees that the Wetlands located on the Gardner Property and/or Slope Areas may be transferred to Jordan Bluffs Association, Inc., a Utah corporation, a community association that is created with respect to the Gardner Property (the “Association”). In connection with such transfer, Master Developer agrees to require the Association to maintain the Slope Areas and Wetlands in accordance with the Maintenance Standards (defined below). The City will be a third-party beneficiary of and will be entitled to enforce the Maintenance Standards. For purposes hereof, “Maintenance Standards” means: (a) with respect to the Wetlands area, (i) such Wetlands will be held in accordance with applicable law, and (ii) on a bi-annual basis, such areas will be enhanced according to the maintenance and enhancement plan described in Section 3.3.3.1(b) with respect to the Slope Area, (i) such Slope Areas will be landscaped in accordance with the requirements of the JB Zone, (ii) the Slope Areas will be maintained in a manner which would mitigate damage or erosion based on typical weather patterns and mitigate sliding problems.”

7. Addition of Section 3.3.3.1. The following is hereby added as a subsection following Section 3.3.3 of the Development Agreement:

“The Developer shall develop a maintenance and enhancement plan with a third-party wetland consultant which shall be implemented within two (2) years of the adoption date of this amendment. This plan shall include removing and eradicating the invasive plant species with a combination of cutting and herbicide treatments and replanting with native shrubs and herbaceous wetland plants. All invasive plant species removal and disposal will be done in a manner consistent with the requirements specified in the maintenance and enhancement plan. The plan will include a maintenance strategy that will preserve the wetlands in an enhanced state.”

8. Amendment to Section 3.7. Section 3.7 of the Development Agreement is hereby amended and restated in its entirety as follows:

“3.7 Limitation on Pod C. If Pod C is sold by Master Developer to a Subdeveloper that is not a Related Entity which Develops Pod C for residential use, the maximum number of residential units that may be constructed on such Pod will, unless otherwise agreed in writing by Master Developer, not exceed 360 units. The foregoing does not in any way constitute an approval by the City for the use of Pod C for 360 units and any such approvals for any number of units will be subject to complying with the provisions of this Agreement and the JB Zone.”

9. Amendment to Section 7. Exhibit “G” attached hereto sets forth the anticipated sequencing of the Phased Development of the Project. Master Developer will use commercially reasonable efforts to develop the Project in the sequence shown on Exhibit “G.” Master Developer and the City recognize that based on market conditions, the needs of tenants and ultimate users and the type of development of a Phase (e.g., residential versus commercial), Phases of the Project can be developed which are not consistent with the sequence shown on Exhibit “G” so long as Master Developer can reasonably demonstrate to that City that such Phase will be developed in a manner which (a) will be consistent with the project circulation systems and provide connections for access and circulation to adjacent phases, (b) allows for physical and functional integration of the site components with developed and undeveloped future Phases, and (c) is otherwise consistent with the JB Zone. Notwithstanding the foregoing, the residential areas shown on Exhibit “F” may developed without regard to the phasing sequence shown on Exhibit “F.” The JB Zone will be reviewed by the City with the completion of each phase and may be amended to include building frontage requirements consistent with site components of developed and undeveloped phases.

10. Construction of Infrastructure Improvements. Master Developer shall complete the following infrastructure improvements on or before June 30, 2022, in accordance with the applicable provisions of the JB Zone, the Large Scale Master Plan and the Development Agreement: (i) Binary Way; (ii) traffic mitigation improvements on Binary Way, Bingham Junction Boulevard, and Center Street; and (iii) landscape improvements and setbacks along Binary Way, Bingham Junction Boulevard, and Center Street.

11. Acknowledgement of Zions Development Agreement. Master Developer previously sold a portion of the Gardner Property to Zions Bancorporation, N.A., a national banking association (“**Zions**”). On or around the date hereof, the City and Zions are entering into a development agreement which agreement constitutes an Additional Development Agreement for purposes of the Master Development Agreement.

12. Effect of Amendment. Except as amended by this Amendment, the Development Agreement shall remain in full force and effect and shall constitute a binding obligation of the parties and their respective successors and assigns.

13. Further Assurances. Each party agrees to execute and deliver such further documents and instruments, and to take such further actions after the date hereof as may be necessary or desirable, and reasonably requested by another party, to give effect to the assignments and other transactions contemplated by this Amendment.

14. Counterparts. This Amendment may be executed in counterparts, all such executed counterparts shall constitute the same agreement, and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

15. Electronically Transmitted Signatures. In order to expedite the transaction contemplated herein, facsimile signatures or signatures sent by electronic mail may be used in place of original signatures on this Amendment. The City and Master Developer intend to be bound by the signatures on facsimile sent or electronically mailed documents, are aware that the other parties hereto will rely on facsimile sent or electronically mailed signatures, and hereby waive any defenses to the enforcement of the terms of this Amendment based on the form of signature. Following any facsimile or electronic mail transmittal, the applicable party shall promptly deliver the original instrument by reputable overnight courier in accordance with the notice provisions of this Amendment.

16. Governing Law. This Amendment shall be governed by and construed in accordance with the internal laws of the State of Utah.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the date first set forth above.

MASTER DEVELOPER

Gardner Jordan Bluffs, L.C., a Utah limited liability company, by its manager

KC Gardner Company, L.C., a Utah limited liability company

By: 

Name: Christina Gardner

Title: Manager



CITY

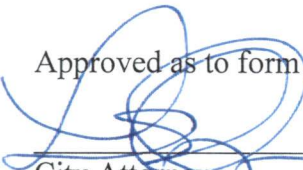
MIDVALE CITY

By: 

Name: Robert M. Hazle

Title: Mayor

Approved as to form and legality:


City Attorney

Attest:

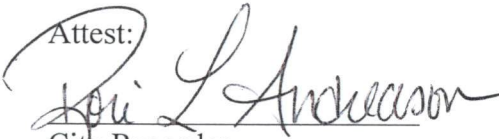

City Recorder

Exhibit "B"

Concept Plan



Exhibit "E"

Community Park Area



Required Park Improvements



Exhibit "G"

Development Phasing





② PHASE 2
1" = 100'

7800 \$

