

**MIDVALE CITY, UT**

**RESOLUTION 2023-R-07**

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A  
DEVELOPMENT AGREEMENT BETWEEN MIDVALE CITY  
CORPORATION AND LOTUS BV MIDVALE, LLC REGARDING THE  
LOTUS EMBER MULTIFAMILY PROJECT LOCATED AT 195 W 7200 S**

**WHEREAS**, pursuant to Utah Code Annotated Section 10-9a-102 (2) Midvale City (the "City") is authorized as follows: "To accomplish the purposes of this chapter, a municipality may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that the municipality considers necessary or appropriate for the use and development of land within the municipality, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing:

- (a) uses;
- (b) density;
- (c) open spaces;
- (d) structures;
- (e) buildings;
- (f) energy efficiency;
- (g) light and air;
- (h) air quality;
- (i) transportation and public or alternative transportation;
- (j) infrastructure;
- (k) street and building orientation;
- (l) width requirements;
- (m) public facilities;
- (n) fundamental fairness in land use regulation; and
- (o) considerations of surrounding land uses to balance the foregoing purposes with a landowner's private property interests and associated statutory and constitutional protections."; and

**WHEREAS**, the Midvale Municipal Code requires a development agreement between the property owner and the City to accompany an approved development plan to ensure the property owner complies with the provisions of the overlay, conditional use permit and site plan approvals, and allowing the property owner the right to develop in accordance with the approved plan for a period up to, but not exceeding, five years; and

**WHEREAS**, the parties have negotiated such agreement, and, as of the date of this

Resolution, agree to enter into said agreement; and

**WHEREAS**, the City Council has reviewed said Development Agreement and agrees that entering into such agreement will help further the goals of the 2016 Midvale City General Plan and compliance with the Transit-Oriented Development Overlay land use regulation.

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

**Section 1.** The Midvale City Council has reviewed the attached Development Agreement between Midvale City Corporation and Lotus BV Midvale, LLC ("Developer").


**Section 2.** The Midvale City Council, through its understanding of the goals of the 2016 Midvale City General Plan, the Transit-Oriented Development Overlay land use regulation and the proposed Lotus Ember Multifamily Project, believes it is in the best interest of the Developer and the City to enter into such Development 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 7<sup>th</sup> day of FEBRUARY, 2023.

  
\_\_\_\_\_  
Marcus Stevenson, Mayor

ATTEST:

  
\_\_\_\_\_  
Rori Andreason, MMC  
City Recorder

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



**ATTACHMENT 2**

Agreement

When recorded, return to:

Midvale City  
7505 S. Holden Street  
Midvale City, UT 84047  
Attn: Midvale City Recorder

**DEVELOPMENT AGREEMENT  
(LOTUS EMBER MULTIFAMILY PROJECT)  
Midvale City, Utah**

THIS DEVELOPMENT AGREEMENT (this “Development Agreement” or “Agreement”) is entered into as of this \_\_\_ day of \_\_\_\_\_, 2023, by and between Lotus BV Midvale, LLC, an Idaho limited liability company (“Developer”), and Midvale City Corporation, a Utah municipal corporation (“Midvale City” or “City”). Developer and City are sometimes referred to herein individually, as a “Party,” and collectively, as the “Parties.”

A. Property. Developer is the owner of certain real property within Midvale City (as more particularly defined in **Exhibit A**, the “Property”).

B. Lotus Ember Multifamily Project. Developer intends to construct on the Property a multifamily residential development project (as more particularly defined below, the “Lotus Ember Multifamily Project” or “Project”).

C. Zoning. The Property is zoned, pursuant to the City’s Zoning Ordinance, as Transit-Oriented Development Overlay Zone (hereinafter referred to as “TODO Zone”). This zone, described in Chapter 17-7-17 of the Midvale City Municipal Code (the “Code”), establishes the procedural and substantive requirements for approval by the City for development on the Property.

D. State Authority. Pursuant to Section 10-9a-102 of the Utah Code, Midvale City is authorized to enter into development agreements as provided therein and desires to enter into this Development Agreement in order to obtain the benefits for the City provided herein.

NOW THEREFORE, in consideration of the above recitals, terms of this Development Agreement, and the mutual benefits to be derived herefrom, the Parties agree as follows:

**Article 1  
The Project**

1.1 Legal Description of Property. The Property that is the subject of this Agreement consists of approximately 1.26 acres of land located at 195 W 7200 S, Midvale, Utah 84047 and more particularly described on **Exhibit A**.

1.2 Description of Project. The Lotus Ember Multifamily Project covered by this Development Agreement consists of an approximately 1.26-acre multifamily residential