

**MIDVALE CITY, UT  
RESOLUTION NO. 2023-R-08**

**A RESOLUTION AUTHORIZING THE EXECUTION OF A RIGHT OF WAY LEASE AGREEMENT WITH 4<sup>TH</sup> AVE. & MAIN LLC AND WAIVER OF THE ASSOCIATED ANNUAL RENT FOR THE USE OF AN EXISTING BULB-OUT LOCATED ON THE WEST SIDE OF THE BUILDING AT 7563 S MAIN ST, MIDVALE, UT 84047**

**WHEREAS**, the City is pursuing efforts to improve streetscape design elements along Midvale's Main Street which promote a sense of place, encourage increased walkability, provide additional amenities and attract both businesses and patrons to the area.

**WHEREAS**, the City owns the property generally described as the bulb-out located on the west side of the building at 7563 S Main St, Midvale, UT 84047 (the Property); and

**WHEREAS**, 4<sup>th</sup> Ave & Main LLC owns the property located at 7563 S Main St, Midvale, UT 84047; and

**WHEREAS**, 4<sup>th</sup> Ave & Main LLC would like to lease the property to provide additional seating and dining options for patrons of 7563 S Main St, Midvale, UT; and

**WHEREAS**, City desires to lease the property to 4<sup>th</sup> Ave & Main LLC as the City believes its intended use will provide desired streetscape elements along Midvale's Main Street; and

**WHEREAS**, 4<sup>th</sup> Ave & Main LLC has requested the waiver of the annual rent for the duration of the executed lease agreement; and

**WHEREAS**, the City has determined that the intended use provides an economic offset by fulfilling the City's goal of maintaining and furthering economic opportunities as well as enhancing the economic viability of Midvale City's Main Street area and therefore supports the requested waiver of annual rent of \$1,820.00 for use of the Property; and

**WHEREAS**, the execution of the Right of Way Lease Agreement shall be contingent upon review and approval of the drainage plan by the City Engineer.

**NOW THEREFORE BE IT RESOLVED**, by the City Council of Midvale City, Utah to hereby authorize the execution of a right of way lease agreement with 4<sup>th</sup> Ave & Main Street and waives the associated annual rent for the use of an existing bulb-out located on the west side of the building at 7567 S Main St, Midvale, UT 84047.

**This Resolution** shall become effective immediately upon passage thereof.

**APPROVED AND ADOPTED** this 7<sup>th</sup> day of February, 2023

Marcus Stevenson  
Marcus Stevenson  
Mayor

ATTEST:

Rori L. Andreason  
Rori L. Andreason, MMC  
City Recorder



**Voting by the Council:**

Bryant Brown  
Paul Glover  
Quinn Sperry  
Heidi Robinson  
Dustin Gettel

**"Aye"**

✓  
✓  
✓  
✓  
✓

**"Nay"**

**RIGHT OF WAY LEASE AGREEMENT  
ON MIDVALE'S MAIN STREET**

This Right of Way Lease Agreement on Midvale's Main Street (the "Lease" or "Agreement") is made and executed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between **MIDVALE CITY**, a Utah municipal corporation, (the "City") and \_\_\_\_\_, a Utah \_\_\_\_\_, (the "Tenant") located at \_\_\_\_\_, Midvale City, Utah, collectively referred to as the "Parties" and individually as "Party.".

*RECITALS*

WHEREAS, the City wishes to enable opportunities for restaurants on Main Street to be able to provide additional outdoor dining opportunities; and

WHEREAS, the City's goals include the establishment of new and creative opportunities to facilitate the Main Street experience for residents and visitors alike ; and

WHEREAS, the City's goals include the preservation and enhancement of Midvale Main Street's character and the desire to strengthen the pedestrian experience along Main Street; and

WHEREAS, the City recognizes the desire of many visitors and residents to dine outdoors along historic Main Street; and

WHEREAS, the City's General Plan and Main Street Community Development Project Area Plan recommends utilizing design techniques to encourage slower traffic speeds and a more intimate pedestrian-oriented scale; and

WHEREAS, the City's goals include maintaining and furthering economic opportunities, as well as enhancing the economic viability of Midvale City's Main Street area; and

WHEREAS, the Midvale City Council finds that use of the Premises described in this Lease for outdoor dining services economically offsets the cost of the City's loss of use of the property.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, the Parties agree as follows:

*TERMS & CONDITIONS OF LEASE*

1. **PROPERTY.** The property affected by this Lease is generally described as the street area, bulb outs, and sidewalk directly fronting Tenant's building located at

\_\_\_\_\_, which has a length of \_\_\_\_\_ feet, and more specifically described in site plan **Exhibit A**, attached hereto and incorporated herein by this reference, (the "Premises").

2. RENT. The City acknowledges the economic and aesthetic benefit to the City, and Main Street in particular, created by Tenant's development and use of the Premises as outdoor dining services. Therefore, the City will not charge rent.
3. TERM. Unless otherwise delayed, suspended or terminated by Salt Lake County health order(s), the term of this Agreement shall commence on \_\_\_\_\_, \_\_\_\_\_, and shall terminate on \_\_\_\_\_ 1, \_\_\_\_\_ ("Term") unless terminated earlier as provided herein. The Tenant shall have the option to extend the lease for two additional five-year terms. Tenant may exercise the option to extend the lease by giving written notice to the City no fewer than 60 days prior to the expiration of the initial term of the Lease or of the first renewal term.

Additional term restrictions are attached in **Exhibit B** (Right of Way Use Guidelines). This Agreement may be terminated by Midvale City upon a finding of noncompliance with this Agreement or the attached operational restrictions.

4. MAIN STREET IMPROVEMENTS. The City retains the right to perform construction on the Premises related to Main Street improvements. If at any time the removal of amenities from a bulb out is required due to construction related to Main Street improvements, the City will give each affected business owner a minimum of two weeks' notice. The City will not be responsible for any associated costs involving deck/bulb out removal/placement or potential lost revenue.
5. USE OF PREMISES. Tenant may use the Premises only for outdoor dining services in a manner consistent with applicable Salt Lake County health orders, Section 17-7-11 of the Midvale City Municipal Code, and the terms of this Agreement. Additional operational restrictions, which must be complied with as part of the conditions of this Lease, are attached in **Exhibit B**. Midvale City makes no representations regarding the Premises and Tenant accepts the Premises "AS IS."
6. IMPROVEMENTS TO THE PREMISES. Tenant may not make any improvements to the Premises without first obtaining Midvale City's written consent. Any improvements approved by Midvale City are completed at Tenant's sole expense and removed at Tenant's sole expense upon expiration of this Agreement. No permanent alterations to the City's property are permitted unless approved by the City as part of an approved site plan.
7. PRE-EXISTING USERS. Tenant acknowledges that there may be preexisting easements, restrictions, conditions, covenants, and encumbrances that affect the Premises. This includes, but is not limited to, utility easements and existing facilities. Tenant agrees to allow for access and use of the right of way by preexisting users, beneficiaries of easements, and others with a legal right to access to the land.