

RESOLUTION NO. R2022-\_\_\_\_\_

A RESOLUTION OF THE SOUTH SALT LAKE CITY COUNCIL AUTHORIZING THE CITY TO ENTER INTO AND EXECUTE A DEVELOPMENT AGREEMENT WITH 300 LOFTS, LLC FOR THE DEVELOPMENT OF A TOWNHOME PROJECT LOCATED AT 3383 SOUTH 300 EAST AND 3360 SOUTH AND 354 EAST.

WHEREAS, the City Council is authorized by Utah Code Ann. §§ 10-9a-102 and 10-9a-532 to enact ordinances, resolutions, and rules and enter into other forms of land use controls and development agreements as necessary and appropriate for the use and development of land within the City; and

WHEREAS, an application for a zoning map amendment has been submitted to the City for review and consideration to amend the South Salt Lake City Zoning Map to include the Townhome Overlay (TO) District to the properties located at 3383 South and 300 East and 3360 South and 354 East; and

WHEREAS, South Salt Lake City Municipal Code 17.03.270 requires, as a condition precedent to a rezone to the Townhome Overlay District, that a development agreement be executed by the applicant, property owner, developer and the City; and

WHEREAS, the City Council finds that the Development Agreement, attached herein as Exhibit A, adequately addresses 300 Lofts, LLC's commitments to the City including project design, community management and development;

NOW THEREFORE, Be It Resolved, by the City Council of the City of South Salt Lake, pursuant to Utah Code Ann. §§ 10-9-a-102 and 10-9a-532, it approves the Development Agreement in the attached Exhibit A and authorizes the Mayor to sign on behalf of the City.

(signatures appear on separate page)

DATED this \_\_\_ day of \_\_\_\_\_ 2022.

**BY THE CITY:**

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Sharla Bynum, Council Chair

City Council Vote as Recorded:

Bynum	_____
Huff	_____
Mila	_____
Pinkney	_____
Siwik	_____
Thomas	_____
Williams	_____

ATTEST:

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Ariel Andrus, City Recorder

## **Exhibit A**

### **Development Agreement**

#### **WHEN RECORDED RETURN TO:**

South Salt Lake City  
Attn: Ariel Andrus, City Recorder  
220 East Morris Avenue  
South Salt Lake, UT 84115

### **DEVELOPMENT AGREEMENT**

DEVELOPMENT AGREEMENT (the “Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, by and among the undersigned entities involved in the development and construction of the subject project (collectively, the “Developer”) and SOUTH SALT LAKE CITY, a municipality and political subdivision of the State of Utah (the “City”). Developer and the City are hereinafter sometimes referred to individually as a “Party” or collectively as the “Parties”.

### **RECITALS**

A. Developer is the owner, developer and/or builder of real property located at approximately 3383 South 300 East, located within the boundaries of the City as more particularly described in “Exhibit A” (the “Property”).

B. A subdivision plat has been approved by the City to divide the Property into 46 lots with cross-access easements as more fully described in the subdivision plat attached hereto as “Exhibit B.”

C. Developer desires to proceed with a project that will consist of 12 residential-only townhome buildings (containing a total of 45 townhome units), and related improvements as depicted on the site plan attached hereto as “Exhibit C” (the “Project”).

D. The City desires to ensure realization of a product substantially the same in architectural style and configuration as was proposed in application materials (shown in the images below):



Figure 1 Rendering of Townhome Building option 1



Figure 2 Rendering of Townhome Building option 2

E. The City Council desires to ensure that the residential component of the Project does not generate offsite parking impacts—as other developments have caused—by requiring two-car garages for every Townhome Unit within the project.

F. In order to accomplish their respective goals and objectives, the Parties hereby agree as follows:

### **AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. **Incorporation of Recitals.** The Recitals and Exhibits are hereby incorporated by reference as part of this Agreement.

2. **Project Aesthetics.** Developer agrees to construct a Project substantially the same in architectural style, color palette, and configuration as depicted in Recital D, above. The City acknowledges that: the proposed 12, 3-story residential-only townhome buildings, comprises 45 townhome units on individual lots. The Parties acknowledge that all applicable requirements of the South Salt Lake City Municipal Code apply to the Project.

3. **Residential Parking.** Developer agrees to require—in a form reasonably satisfactory to the City Attorney—that each of the residential tenants of the Project has use of the attached two-car garage as part of their residential lease, in order to discourage tenants from parking offsite in the areas surrounding the Project.

4. **Recordation of Plat.** In exchange for Developer’s promised adherence to the proposed Project aesthetics as set forth in Section 2 above and the residential parking restrictions set forth in Section 3 above, the City shall record the final approved subdivision plat for the Project.

5. **Successors and Assigns.**

5.1. **Binding Effect.** This Agreement shall be binding upon all successors and assigns of Developer in the ownership or development of any Lot or other portion of the Project or Property, as applicable.

5.2. **Assignment.** Except as provided herein, none of the provisions, terms, conditions, benefits, or burdens contained in this Agreement may be severed from this Agreement and any assignment to any other party, individual, or entity may not be made without the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, nothing herein shall preclude: (a) a collateral assignment of this Agreement to first priority mortgage lenders providing construction and development financing for the Project, or portion thereof, or (b) the sale or transfer of one or more Lots to affiliates of the Developer or others; provided, that the obligations contained in this Agreement and applicable to such Lot or Lots sold or transferred shall be binding upon the successor owners thereof. Any such request for assignment may be made by letter addressed to the City as provided herein and the prior written consent of the City may also be evidenced by letter from the City to Developer or its successors or assigns. The assignment of the Project shall require the assignee to sign a form of acknowledgement and consent agreeing to be bound by the terms of this Agreement.

6. **Default.**

6.1. **Notice.** If Developer or the City fail to perform their respective obligations hereunder or to comply with the terms hereof, the party believing that a default has occurred shall provide notice to the other party as provided herein. If the City believes that the default has been

committed by Developer, then the City shall also provide a courtesy copy of the notice to Developer.

**6.2. Contents of the Notice of Default.** The Notice of Default shall:

**6.2.1. Claim of Default.** Specify the claimed event of default;

**6.2.2. Identification of Provisions.** Identify with particularity the provisions of any applicable law, rule, regulation, or provision of this Agreement that is claimed to be in default;

**6.2.3. Specify Materiality.** Identify why the default is claimed to be material; and

**6.2.4. Optional Proposed Cure.** If the City chooses, in its discretion, it may propose a method and time for curing the default, which shall be of no less than sixty (60) days duration.

**6.3. Meet and Confer.** Upon the issuance of a Notice of Default, the Parties shall meet within ten (10) business days and confer in an attempt to resolve the issues that are the subject matter of the Notice of Default.

**6.4. Remedies.** If, after meeting and conferring, the Parties are not able to resolve the default, then the Parties may have the following remedies:

**6.4.1. Legal Remedies.** The rights and remedies available at law and in equity, including, but not limited to injunctive relief, specific performance and termination, but not including damages or attorney's fees.

**6.4.2. Enforcement of Security.** The right to draw on any security posted or provided in connection with the Project and relating to remedying of the particular default.

**6.4.3. Withholding Further Development Approvals and Suspending Business License.** The right to withhold all further reviews, approvals, licenses, building permits, and/or other permits for future development on the Property.

**6.5. Extended Cure Period.** If any default cannot be reasonably cured within sixty (60) days then such cure period may be extended as needed, by agreement of the Parties for good cause shown, so long as the defaulting party is pursuing a cure with reasonable diligence.

**6.6. Cumulative Rights.** The rights and remedies set forth herein shall be cumulative.

**6.7. Force Majeure.** All time periods imposed or permitted pursuant to this Agreement shall automatically be extended and tolled for: (a) period of any and all moratoria imposed by the City or other governmental authorities in any respect that materially affects the development of

the Project; or (b) by events reasonably beyond the control of Developer including, without limitation, inclement weather, war, strikes, unavailability of materials at commercially reasonable prices, and acts of God, but which does not include financial condition of the Developer or its successors.

7. **Notices.** Any notices, requests and demands required or desired to be given hereunder shall be in writing and shall be served personally upon the Party for whom intended or if mailed be by certified mail, return receipt requested, postage prepaid to such Party at its address shown below:

To:

With a copy to:  
300 Lofts, LLC  
11616 South State Street, Suite 1504  
Draper, Utah 84020

To City:

South Salt Lake City  
Attn: City Attorney  
220 East Morris Avenue, Suite 200  
South Salt Lake, Utah 84115

Any Party may change its address or notice by giving written notice to the other Parties in accordance with the provisions of this Section.

8. **General Terms and Conditions.**

8.1. **Agreement to Run with the Land.** This Agreement shall be recorded in the Office of the Salt Lake County Recorder against the Property and is intended to and shall be deemed to run with the land and shall be binding on all successors in the ownership and development of any portion of the Property.

8.2. **Entire Agreement.** This Agreement, together with the Exhibits hereto, integrates and constitutes all of the terms and conditions pertaining to the subject matter hereof and supersedes all prior negotiations, representations, promises, inducements, or previous agreements between the Parties hereto with respect to the subject matter hereof. Any amendments hereto must be in writing and signed by the respective Parties hereto.

8.3. **Headings.** The headings contained in this Agreement are intended for convenience only and are in no way to be used to construe or limit the text herein.

8.4. **Non-Liability of City Officials or Employees.** No officer, representative, agent, or employee of the City shall be personally liable to Developer, or any successor-in-interest or

assignee of Developer, in the event of any default or breach by the City or for any amount which may become due to Developer, or its successors or assignees, for any obligation arising out of the terms of this Agreement.

**8.5. No Third-Party Rights.** The obligations of the Parties set forth in this Agreement shall not create any rights in or obligations to any persons or parties other than to the City, Developer, and the Developer's authorized successors, together with one or more first priority mortgage lenders of the Project, or portions thereof who shall be deemed third-party beneficiaries of this Agreement. The City, Developer, successors to the Developer, and the third-party mortgage lender identified above, alone shall be entitled to enforce or waive any provisions of this Agreement to the extent that such provisions are for their benefit.

**8.6. Severability.** Should any portion of this Agreement for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such portion shall not affect the validity of any of the remaining portions, and the same shall be deemed in full force and effect as if this Agreement had been executed with the invalid portions eliminated.

**8.7. Waiver.** No waiver of any of the provisions of this Agreement shall operate as a waiver of any other provision regardless of any similarity that may exist between such provisions, nor shall a waiver in one instance operate as a waiver in any future event. No waiver shall be binding unless executed in writing by the waiving Party.

**8.8. Survival.** All agreements, covenants, representations, and warranties contained herein shall survive the execution of this Agreement and shall continue in full force and effect throughout the term of this Agreement.

**8.9. Public Information.** The Parties understand and agree that all documents related to this agreement will be public documents, as provided in UTAH CODE ANN. § 63G-2-101, *et seq.*

**8.10. Satisfaction of Obligations.** At such time as the obligations of the Developer contained in the Agreement have been satisfied, including the implementation of provisions required by this Agreement into other agreements, declarations and/or covenants approved by the City Attorney, upon the request of the Declarant and/or its authorized successors, the City shall acknowledge in a form approved by the City Attorney suitable for recordation, that Declarant has satisfied its obligations as set forth in this Agreement.

**8.11. Governing Law.** This Agreement and the performance hereunder shall be governed by the laws of the State of Utah.

**8.12. Counterparts.** This Agreement may be executed in multiple counter-parts, which shall constitute one and the same document.

**IN WITNESS WHEREOF**, this Agreement has been executed by South Salt Lake City, acting by and through the South Salt Lake City Council, Salt Lake County, State of Utah, pursuant



to Resolution No. \_\_\_\_\_, authorizing such execution, and by a duly authorized representative of Developer as of the above-stated date.

(signatures appear on next page)

(remainder of page intentionally left blank)

**SOUTH SALT LAKE CITY**, a Utah municipality and political subdivision of the State of Utah.

By: \_\_\_\_\_  
Chair, City Council

ATTEST:

\_\_\_\_\_  
Ariel Andrus, South Salt Lake City Recorder

APPROVED AS TO FORM

\_\_\_\_\_  
Josh Collins, City Attorney

**DEVELOPER:**

**300 Lofts, LLC**, a Utah limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF UTAH                    )  
  :ss.  
COUNTY OF SALT LAKE    )

On the \_\_\_\_\_ day of \_\_\_\_\_, 2022, personally appeared before me \_\_\_\_\_, who being duly sworn, did say that he is the \_\_\_\_\_ of **300 Lofts, LLC**, a Utah limited liability company, and that the foregoing instrument was signed in behalf of said entity and said person duly acknowledged to me that he executed the same for the purposes therein stated.

\_\_\_\_\_  
NOTARY PUBLIC

## Exhibit A

A TRACT OF LAND BEING SITUATE IN THE SOUTHWEST AND SOUTHEAST QUARTERS OF SECTION 30, TOWNSHIP 1 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, HAVING A BASIS OF BEARINGS OF SOUTH 00°18'16" WEST BETWEEN THE STREET MONUMENTS IN 300 EAST AT THE INTERSECTIONS OF 3300 SOUTH STREET AND 3900 SOUTH STREET, SAID TRACT CONSISTING OF SALT LAKE COUNTY PARCEL NUMBERS 16-30-381-003, 16-30-456-016, 16-30-381-004, 16-30-381-005, 16-30-381-006, 16-30-456-003, AND 16-30-456-006, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS SOUTH 00°18'16" WEST 539.43 FEET AND NORTH 89°53'42" EAST 33.00 FEET FROM THE STREET MONUMENT AT THE INTERSECTION OF 3300 SOUTH AND 300 EAST, SAID POINT ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF 300 EAST STREET, SAID POINT ALSO BEING NORTH 00°18'16" EAST ALONG SAID EAST ALONG SAID EAST RIGHT-OF-WAY LINE A DISTANCE OF 68.11 FEET FROM THE SOUTHWEST CORNER OF LOT 9, BLOCK 18, 10-ACRE PLAT A, BIG FIELD SURVEY, AND RUNNING THENCE NORTH 89°53'42" EAST 153.47 FEET TO THE WEST EAST 153.47 FEET TO THE WEST LINE OF LOT 6, ROTH GARDENS NO. 3 SUBDIVISION, ON FILE WITH THE OFFICE OF THE SALT LAKE COUNTY RECORDER; THENCE SOUTH 00°18'16" WEST ALONG SAID WEST LINE A DISTANCE OF 61.71 FEET TO THE SOUTHWEST CORNER OF SAID SUBDIVISION; THENCE NORTH 89°54'37" EAST ALONG SAID THE SOUTH LINE OF SAID SUBDIVISION AND A PROLONGATION THEREOF A DISTANCE OF 204.63 FEET; THENCE NORTH 00°18'16" EAST 124.00 EAST 124.00 FEET; THENCE NORTH 89°54'37" EAST 102.31 FEET; THENCE SOUTH 00°18'16" WEST 130.45 FEET; THENCE NORTH EAST 102.31 FEET; THENCE SOUTH 00°18'16" WEST 130.45 FEET; THENCE NORTH WEST 130.45 FEET; THENCE NORTH 89°54'45" EAST 307.74 FEET TO THE SOUTHEAST CORNER OF SAID LOT 9; THENCE SOUTH 00°15'41" WEST ALONG SAID EAST LINE A DISTANCE OF 3.60 FEET TO THE NORTHEAST CORNER OF LOT 1, ROTH GARDENS NO. 4 SUBDIVISION, ON FILE WITH THE OFFICE OF THE SALT LAKE COUNTY RECORDER; THENCE SOUTH 89°54'45" WEST ALONG THE NORTH LINE OF SAID SUBDIVISION A DISTANCE OF 125.08 FEET; THENCE SOUTH 00°15'41" WEST ALONG THE WEST LINE OF SAID SUBDIVISION A DISTANCE OF 139.83 FEET TO THE NORTH LINE OF NEWSOME VILLAGE CONDOS PLAT "B", ON FILE WITH THE OFFICE OF THE SALT LAKE COUNTY RECORDER; THENCE SOUTH B", ON FILE WITH THE OFFICE OF THE SALT LAKE COUNTY RECORDER; THENCE SOUTH , ON FILE WITH THE OFFICE OF THE SALT LAKE COUNTY RECORDER; THENCE SOUTH 89°55'25" WEST ALONG SAID NORTH LINE AND THE NORTH LINE OF NEWSOME VILLAGE CONDOS PLAT "A" A" AMENDED, ON FILE WITH THE OFFICE OF THE SALT LAKE COUNTY RECORDER A DISTANCE OF 311.89 FEET; THENCE SOUTH 00°04'35" EAST ALONG THE WESTERLY LINE OF SAID VILLAGE CONDOS PLAT "A" AMENDED A DISTANCE OF A" AMENDED A DISTANCE OF AMENDED A DISTANCE OF 11.50 FEET; THENCE SOUTH 89°55'25" WEST ALONG THE NORTH LINE OF SAID PLAT A DISTANCE OF 331.36 FEET TO THE EAST RIGHT-OF-WAY LINE OF 300 EAST STREET; THENCE NORTH 00°18'16" EAST ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 222.92 FEET TO THE POINT OF BEGINNING.

CONTAINING 45 LOTS

1 OPEN SPACE

121,586 SQUARE FEET OR 2.791 ACRES, MORE OR LESS.





