

WHEN RECORDED, RETURN TO:

ATTN Planning Director
Salt Lake City Corporation
PO BOX 145480
Salt Lake City, Utah 84114-5480

DEVELOPMENT AND USE AGREEMENT

THIS DEVELOPMENT AND USE AGREEMENT (this “**Agreement**”) is made and entered into by and between **SALT LAKE CITY CORPORATION**, a political subdivision of the State of Utah (“**City**”) and **Ivory Development, LLC** (“**Developer**”). City and Developer may be referred to herein collectively as “**Parties**.”

RECITALS

A. Developer is the owner of approximately 3.22 acres of land located at 675 North F Street in Salt Lake City (the “**Property**”), which land is more particularly described on the attached Exhibit “A” and incorporated herein by this reference.

B. Developer submitted an application to amend the zoning map regarding the Property to rezone the Property from FR-3/12,000 Foothills Residential District to SR-1 Special Development Pattern Residential District (Petition No. PLNPCM2020-00335) and to amend the Avenues Community Master Plan Future Land Use Map with respect to the Property from Very Low Density to Low Density (Petition No. PLNPCM2020-00334).

C. Developer intends to develop the Property with single-family dwellings, some of which may include an internal accessory dwelling unit (as that term is defined and applied in Utah Code Chapter 10-9a).

D. The Salt Lake City Planning Commission heard this matter on June 22, 2022 at which the commission voted in favor of forwarding a positive recommendation on the petition to the Salt Lake City Council.

E. The Salt Lake City Council held a public hearing on this petition on November 10, 2022 and at its December 13, 2022 meeting voted to approve Ordinance 81 of 2022, which approved Developer’s petition to rezone the Property and amend the Avenues Community Master Plan, subject to Developer entering into a development and use agreement with the City to ensure development and use of the Property occurs in a manner consistent with City goals and policies and that respects unique circumstances regarding the Property. This Agreement satisfies that the condition of that ordinance.

F. City, acting pursuant to its authority under the Municipal Land Use, Development, and Management Act, Utah Code Chapter 10-9a as amended, and in furtherance

of its land use policies, goals, objectives, ordinances, and regulations of Salt Lake City, in the exercise of its legislative discretion, has elected to approve and enter into this Agreement.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in reliance on the foregoing recitals, City and Developer agree as follows:

1. **Incorporations of Recitals.** The Parties hereby incorporate the foregoing recitals into this Agreement.

2. **Obligations of the Parties.**

a. **Developer's Obligations.** Development and use of the Property shall comply with the following requirements:

- i. Accessory buildings shall not be allowed in rear yards along the westernmost property line of the Property.
- ii. Where the westernmost property line of a lot is a rear or side property line, the second levels of any homes located along that rear or side property line shall be setback at least 30 feet from the corresponding rear or side property line.
- iii. Accessory dwelling units on the Property shall not be used as short-term rentals.
- iv. Any open space areas located along Capitol Park Avenue or F Street shall generally be accessible to the community at large, with the homeowners' association or other entity responsible for managing the common area establishing rules regarding the use and hours of availability as it prefers.
- v. The city's building approval and permitting process will be followed for construction of retaining walls on the Property

b. **City's Obligations:** Following recording of this Agreement against the Property, the City shall cause Ordinance 81 of 2022 to be published within 14 days of Developer providing proof to the City that the Agreement has been recorded. The City is further obligated to issue all necessary permits and certificates of occupancy for development of the Property that meet all requirements of law and satisfy Developer's obligations under this Agreement.

3. **Severability.** If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the Parties.

4. **Other Necessary Acts.** Each Party shall execute and deliver to the other any further instruments and documents as may be reasonably necessary to carry out the objectives and intent of this Agreement.

5. **Construction/Interpretation.** Developer has been informed that it is customary to consult legal counsel in the preparation and negotiation of the terms of development agreements. Developer has either done so or chosen not to. Should litigation arise from any breach of this Agreement, the Parties agree that no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

6. **Other Miscellaneous Terms.** The singular shall include the plural; the masculine gender shall include the feminine; “shall” is mandatory; “may” is permissive.

7. **Runs with the Land.** This Agreement and the covenants and restrictions herein are binding and run with the land during the Term, such that any subsequent owners of fee title or other third parties holding an interest in and to all or some portion of the Property shall be deemed to have acquired such interest with notice and knowledge of this Agreement such that the Property shall remain subject to the terms, conditions, restrictions and provisions set forth herein. In keeping with the foregoing, the term “Developer”, as used herein, shall be construed to mean and include any successors in interest to fee ownership of all or any portion of the Property and any other holders of interests in and to any portion of the Property. City shall be deemed a beneficiary of such Agreement, covenants, and restrictions, and in the event of any uncured default, shall have the right to exercise all the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such default to which beneficiaries of such covenants may be entitled.

8. **Term and Termination.** This Agreement includes covenants, conditions, and restrictions regarding the development and use of Developer’s Property, which shall run with the land in perpetuity. The covenants, conditions, and restrictions may only be modified or terminated with the express authorization of the Salt Lake City Council following the same processes required to amend the zoning map and applicable master plan.

9. **Waiver.** No action taken by any Party shall be deemed to constitute a waiver of compliance by such Party with respect to any representation, warranty, or condition contained in this Agreement.

10. **Remedies.** Either Party may, in addition to any other rights or remedies, institute an equitable action to cure, correct, or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the obligations and rights of the Parties hereto, or to obtain any remedies consistent with the foregoing and the purpose of this Agreement.

11. **Utah Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Utah.

12. **Covenant of Good Faith and Fair Dealing.** Each Party shall use its best efforts and take and employ all necessary actions in good faith consistent with this Agreement to ensure that the rights secured by the other Party through this Agreement can be enjoyed.

13. **No Third-Party Beneficiaries.** This Agreement is between the City and Developer. No other party shall be deemed a third-party beneficiary or have any rights under this Agreement.

14. **Force Majeure.** No liability or breach of this Agreement shall result from delay in performance or nonperformance caused, directly or indirectly, by circumstances beyond the reasonable control of the Party affected ("Force Majeure"), including, but not limited to, fire, extreme weather, terrorism, explosion, flood, war, power interruptions, the act of other governmental bodies, accident, labor trouble or the shortage or inability to obtain material, service, personnel, equipment or transportation, failure of performance by a common carrier, failure of performance by a public utility, or vandalism.

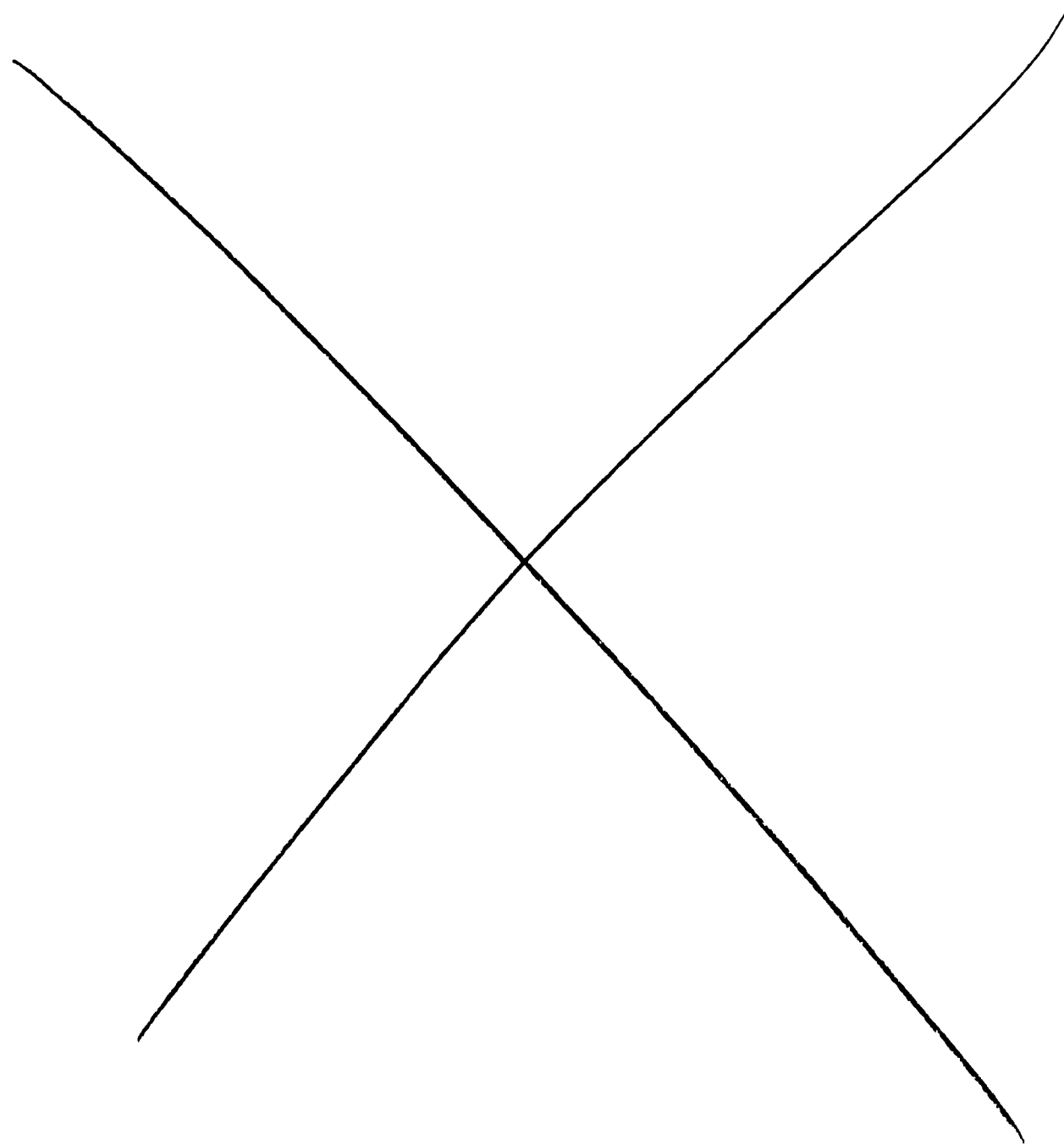
15. **Entire Agreement, Counterparts and Exhibit.** Unless otherwise noted herein, this Agreement is the final and exclusive understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. All waivers of the provisions of this Agreement shall be in writing and signed by the appropriate authorities of City and Developer.

16. **REPRESENTATION REGARDING ETHICAL STANDARDS FOR CITY OFFICERS AND EMPLOYEES AND FORMER CITY OFFICERS AND EMPLOYEES.** Developer represents that it has not: (1) provided an illegal gift or payoff to a City officer or employee or former City officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, or brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, a City officer or employee or former City officer or employee to breach any of the ethical standards set forth in City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

17. **GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT.** City is subject to the requirements of the Government Records Access and Management Act, Chapter 2, Title 63G, Utah Code Annotated or its successor ("GRAMA"). All materials submitted by Developer pursuant to this Agreement are subject to disclosure unless such materials are exempt from disclosure pursuant to GRAMA. The burden of claiming an exemption from disclosure shall rest solely with Developer. Any materials for which Developer claims a privilege from disclosure shall be submitted marked as "Business Confidential" and accompanied by a concise statement of reasons supporting Developer's claim of business confidentiality. City will make reasonable efforts to notify Developer of any requests made for disclosure of documents submitted under a claim of business confidentiality. Developer may, at Developer's sole expense, take any appropriate actions to prevent disclosure of such material. Developer

specifically waives any claims against City related to disclosure of any materials required by GRAMA.

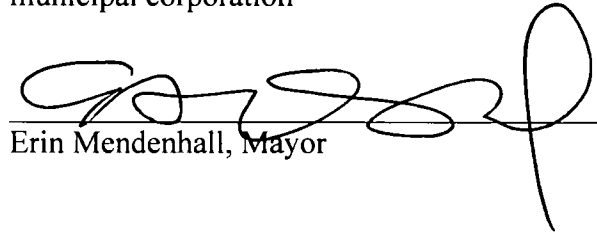
[Signature Page to Follow]



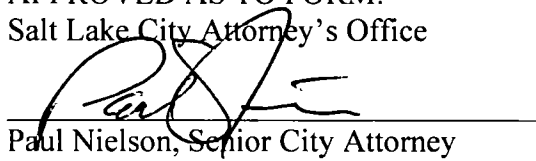
EFFECTIVE as of the 3 day of August, 2022.

CITY:

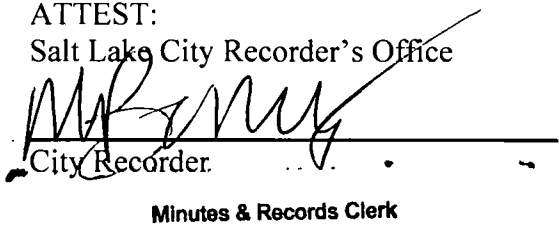
SALT LAKE CITY CORPORATION, a Utah municipal corporation


Erin Mendenhall, Mayor

APPROVED AS TO FORM:
Salt Lake City Attorney's Office


Paul Nielson, Senior City Attorney

ATTEST:
Salt Lake City Recorder's Office


City Recorder
Minutes & Records Clerk

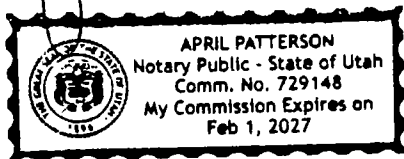
RECORDED
AUG 10 2023
CITY RECORDER

STATE OF UTAH)
) :SS
COUNTY OF SALT LAKE)

This instrument was acknowledged before me this 3 August, 2022, by Erin Mendenhall, Mayor of Salt Lake City Corporation, a Utah municipal corporation.

WITNESS my hand and official seal.


Notary Public



DEVELOPER:

By: Chris P. Giamvroulas
Its: PRESIDENT

STATE OF UTAH §
COUNTY OF SALT LAKE §

This instrument was acknowledged before me on the 21ST day of JULY, 2023, by CHRISTOPHER P. GIAMVROULAS, an individual.

WITNESS my hand and official seal.

[Signature]
Notary Public

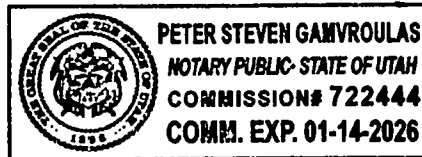


EXHIBIT “A”

Legal description of Developer’s Property located at 675 North F Street:

675 North F Street

Tax ID No. 09-30-455-021-0000

LOT 1, CAPITOL PARK AVENUE EXTENSION SUBDIVISION.