

WHEN RECORDED, RETURN TO:

Mr. Alec Harwin
2843 Sackett Drive
Park City, Utah 84098

Salt Lake City Corporation
Attn: Planning Director
451 S. State Street, Suite 406
Salt Lake City, Utah 84111

12319570
07/13/2016 12:39 PM \$0.00
Book - 10451 Pg - 9771-9780
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
SALT LAKE CITY
451 S STATE ST #406
SLC UT 84111
BY: CRA, DEPUTY - WI 10 P.

RECORDED

JUL 11 2016

CITY RECORDER

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the “**Agreement**”) is made and entered into by and between **SALT LAKE CITY CORPORATION**, a political subdivision of the State of Utah (“**City**”) and **Sojourn SLC, LLC**, a Ohio limited liability company (“**Developer**”). City and Developer may be referred to herein collectively as “**Parties**.”

RECITALS

A. Developer is the owner of approximately 0.69 acres of land located between 200 West Street and S. Jefferson Street in Salt Lake City (the “**Property**”), which land is more particularly described on the attached Exhibit “**A**”. The Property is separated by a public alley over which the Developer wishes to build a pedestrian walkway to connect the buildings to be constructed on the Property.

B. The Salt Lake City Planning Commission made a positive recommendation to the Salt Lake City Council to adopt an ordinance vacating a portion of the air rights above the public alley.

C. On June 7, 2016 the city council voted to vacate a portion of the air rights over the public alley subject to Developer entering into a development agreement providing that the exterior of the pedestrian walkway be constructed mostly of transparent building materials such as glass. This Agreement is the development agreement referenced by the City Council.

D. City, acting pursuant to its authority under the Municipal Land Use, Development, and Management Act, Utah Code §§ 10-9a-101, -803, 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.

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P.O. BOX 145515
SALT LAKE CITY, UTAH 84114-5515

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. **Pedestrian Walkway Materials.** Developer agrees that the majority of the exterior of the pedestrian walkway consisting of floors 3,4,5, and 6 shall be clad with transparent building materials such as glass. The renderings provided in Exhibit "C" hereto were reviewed by the city council and deemed consistent with the intent of the transparent materials requirement.

3. **Grant of Air Rights.** For good and valuable consideration, determined by City's Real Estate Services Division as to fair market value, City shall deed to Developer the above-land air rights depicted on Exhibit "B" hereto.

4. **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.

5. **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.

6. **Construction/Interpretation.** This Agreement has been reviewed and revised by legal counsel for both the City and Developer, and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to the interpretation or enforcement of this Agreement.

7. **Other Miscellaneous Terms.** The singular shall include the plural; the masculine gender shall include the feminine; "shall" is mandatory; "may" is permissive.

8. **Covenants Running with the Air Rights.** The provisions of this Agreement shall constitute real covenants, contract and property rights, and equitable servitudes, which shall run with all of the above-land air rights subject to this Agreement. The burdens and benefits of this Agreement shall bind and inure to the benefit of each of the Parties, and to their respective successors, heirs, assigns, and transferees.

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.

2 PROPERTY OF SALT LAKE
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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. The following exhibits are attached to this Agreement and incorporated herein for all purposes:

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]

RECORDED

JUL 11 2016

EFFECTIVE as of the ___ day of _____, 2016.

CITY RECORDER

CITY:

SALT LAKE CITY CORPORATION, a municipal corporation of the State of Utah

ATTEST:

By: [Signature]
Cindi Mansell,
Salt Lake City Recorder

By: [Signature]
Mayor Jacqueline Biskupski

Approved as to form:

[Signature]
City Attorney's Office
Date: July 6, 2016



DEVELOPER:

Sojourn SLIC, LLC
By: [Signature]
Its: Project manager

ACKNOWLEDGMENT

State of UTAH
County of SALT LAKE
On this 5 day of JULY, 2016, ALEC HARWIN
personally appeared before me,
 who is personally known to me,
 whose identity I verified on the basis of DRIVERS LICENSE
 whose identity I verified on the oath/affirmation of _____
a credible witness,
to be the signer of the foregoing document, and he/she acknowledged that
he/she signed it. [Signature]
My Commission Expires: 10/03/2016 Notary Signature



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EXHIBIT "A"

Legal description of Developer's Property:

A part of the Northeast Quarter of Section 12, Township 1 South, Range 1 West, Salt Lake Base and Meridian, U.S. Survey, Salt Lake City, Salt Lake County, Utah Lots 7, 8, 9, 10, 11, 12 and 13 of Block 1, THORN SUBDIVISION, according to the official plat thereof on file and of record in the Salt Lake County Recorder's Office.

Contains: 29,906 sq.ft.

EXHIBIT "B"

Legal description of the portion of
air rights above a city-owned alley to be vacated:

A part of the Northeast Quarter of Section 12, Township 1 South, Range 1 West, Salt Lake Base and Meridian, U.S. Survey, Salt Lake City, Salt Lake County, Utah

Beginning at a point on the West line of Lot 11, Block 1, Thorn Subdivision, Salt Lake City, Salt Lake County, Utah, being 28.68 feet North 0°01 '20" West along said West line of Lot 11 from the Southwest corner thereof, said Southwest corner being 179.27 feet South 89°57'08" West along the Center line of Goltz Avenue and 22.45 feet North 0°02'52" West from the Salt Lake City Monument at the intersection of said Goltz Avenue and Jefferson Street, and running thence due West 20.00 feet (Elevation 4248.6') to the East line of Lot 10, said Block 1, Thorn Subdivision; thence North 0°01 '20" West 13.42 feet (4248.6') along said East line of Lot 10 and the East line of Lot 9, said Block 1, Thorn Subdivision; thence due East 20.00 feet (4248.6') to the West line of Lot 12, said Block 1, Thorne Subdivision; thence South 0°01 '20" East 13.42 feet (4248.6') along said West line of Lot 12 and Lot 11, to the point of beginning.
Contains: 268 sq.ft.

Inclusive of all that volume of space which lies above an elevation of 4248.6 feet, as measured vertically from the North American Vertical Datum of 1988, (NAVD 88) using Salt Lake City Monument at 900 South and 200 West with a posted elevation of 1289. 798m (4,231.61 ft) and formed by projecting vertically upwards, the above described boundary.

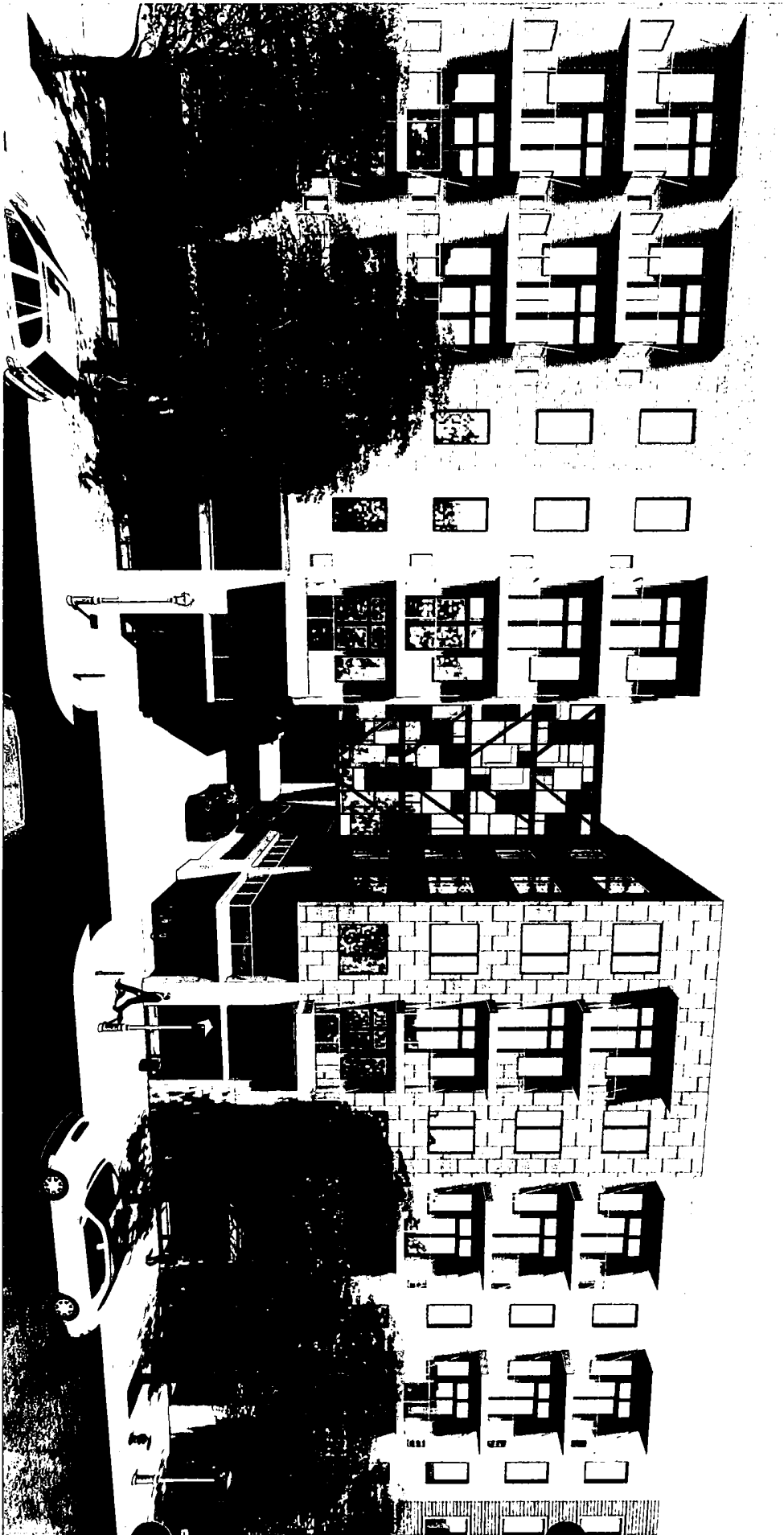
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EXHIBIT "C"

Depictions of materials to be used on the proposed pedestrian walkway.

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Exhibit "C"



BRIDGE RENDERING

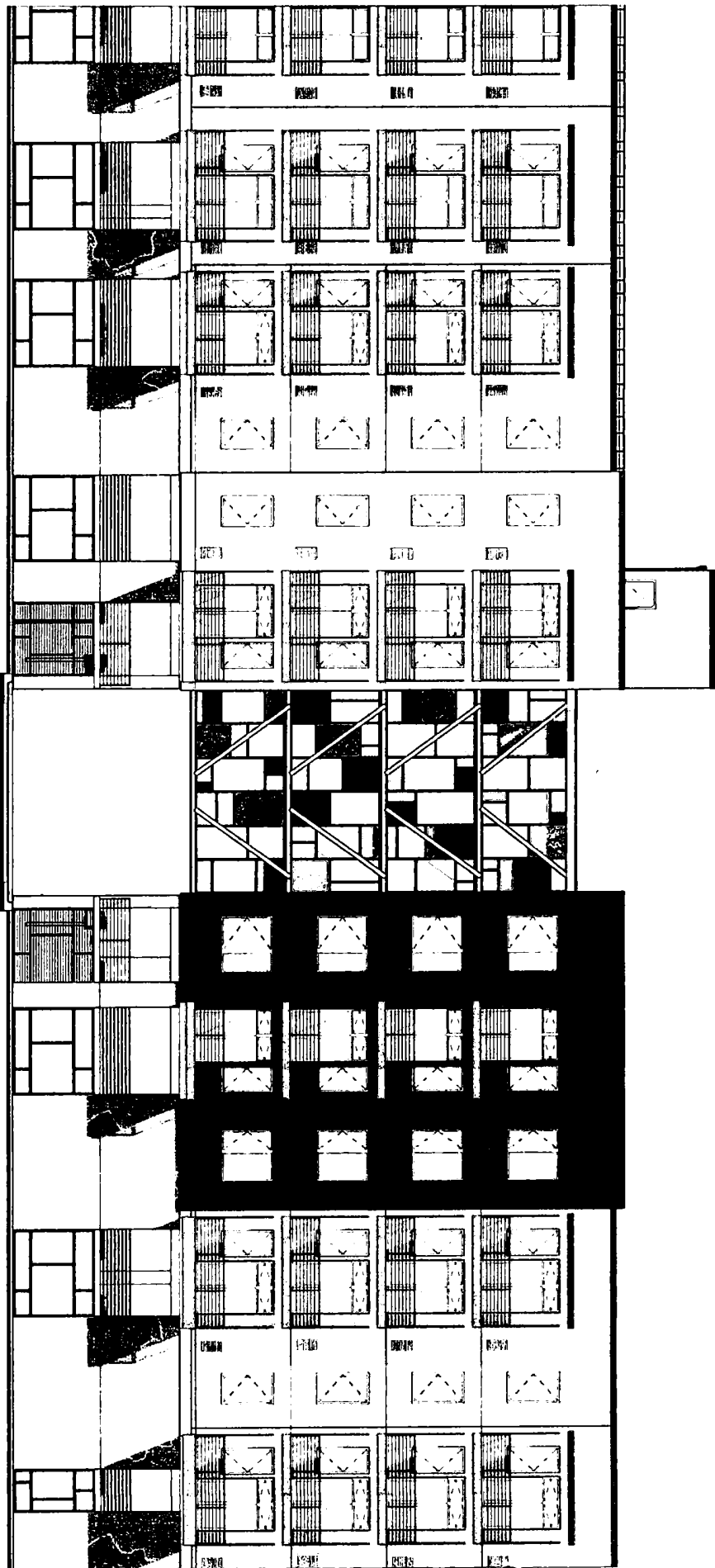


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C9 FLATS
Bldg A: 1075 S 200 W
Bldg B: 150 W 600Z AVE
SALT LAKE CITY, UT

05/03/2016

Exhibit "C"



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C9 FLATS

BLDG A: 1075 S 200 W
BLDG B: 101 W 602Z AVE
SALT LAKE CITY, UT

BRIDGE ELEVATION

05.03.2018