

Loan No. 2023-21

14189408 B: 11463 P: 8067 Total Pages: 7  
12/27/2023 04:05 PM By: tpham Fees: \$40.00  
Rashelle Hobbs, Recorder, Salt Lake County, Utah  
Return To: INTEGRATED TITLE INSURANCE SERVICES, LLC (MAIN)  
1092 E SOUTH UNION AVENUE MIDVALE, UT 840472902

WHEN RECORDED, RETURN TO:

Utah Equitable TOD Fund LLC  
6880 South 700 West  
Community Center, Office 102  
Midvale, Utah 84047-4513  
Attn: Daniel J. Adams

## DEED RESTRICTION

This Deed Restriction ("Deed Restriction") is made and agreed to this 26 day of December, 2023 (the "Closing Date"), by 269 Brooklyn LLC, a Utah limited liability company ("Borrower"), and JCI, Inc., a Utah corporation ("JCI" and, together with Borrower, "Owner").

### PRELIMINARY STATEMENT

Borrower has requested that Utah Equitable TOD Fund LLC, a Utah limited liability company ("Lender"), make a loan to Borrower in the amount of Five Million Seven Hundred Fifty Thousand Dollars (\$5,750,000.00) (the "Loan") for the acquisition financing of property upon which Borrower intends to construct a low income housing multi-family housing development located in Salt Lake County, State of Utah, on a site more particularly described in Exhibit A and by this reference made a part hereof (the "Property"). The Loan will be administered in accordance with a Loan Agreement dated the Closing Date by and between Borrower and Lender (the "Loan Agreement"). The Loan will also be evidenced by a Promissory Note dated the Closing Date, executed by Borrower and payable to Lender (the "Note") and will be secured by, among other things, a Trust Deed, Assignment of Rents, Security Agreement and Fixture Filing dated the Closing Date (the "Trust Deed"), to be recorded in the land records of Salt Lake County, State of Utah.

As a condition precedent to making the Loan to Borrower, Lender requires Owner to execute and deliver this Deed Restriction to Lender.

### AGREEMENT

**NOW, THEREFORE**, in consideration of Lender making the Loan to Borrower, and of the mutual undertakings set forth below, Owner and Lender agree as follows:

1. **Definitions.** All capitalized terms that are used in this Deed Restriction but not defined in this Deed Restriction shall have the meanings assigned to them by the Loan Agreement.

2. **Covenants of Owner.** Each Owner, for itself and its successors in interest, agrees the Property will be used to construct a low income housing tax credit project under Section 42 of the Internal Revenue Code (the "Affordable Housing Project") and that a land use restrictive agreement

complying with Section 42 of the Internal Revenue Code will be recorded against the Property in connection with the Affordable Housing Project.

Owner will complete construction of and receive an unconditional certificate of occupancy for the Affordable Housing Project on the Property prior to the earlier of (i) thirty-six months following the date Borrower closes a construction loan to finance the construction of the Affordable Housing Project, or (ii) July 1, 2029.

**3. Lender's Remedies.** If Owner breaches any of the covenants contained in Section 2 of this Deed Restriction, Borrower shall pay to Lender upon such breach,

- (a) In addition to the interest paid to Lender under the terms of the Note, an amount equal to an additional five percent (5%) interest per annum, accrued daily on the outstanding balance of the Principal Indebtedness from the Closing Date to the date the Principal Indebtedness is paid in full (such interest being calculated on the basis of a 360 day year simple interest basis by applying the ratio of the annual interest rate over a year of 360 days (365/360), multiplied by the outstanding principal balance, multiplied by the actual number of days the Principal Indebtedness is outstanding; and
- (b) An amount equal to 0.90 multiplied by any increase in the Property's fair market value, which increase shall be determined by Lender by subtracting the Property's fair market value as set forth in the Appraisal, and reasonable closing costs determined by Lender in Lender's sole discretion, from the Property's fair market value as set forth in a then current appraisal of the Property ("New Appraisal") acceptable to Lender in Lender's sole discretion, which New Appraisal shall be ordered by Lender and paid for by Borrower.

**4. Covenants to Run With the Land.** Owner hereby subjects the Property to this Deed Restriction. Owner hereby declares its express intent that this Deed Restriction shall be deemed a covenant running with the land and shall pass to and be binding upon each Owner's successors in title to the Property, until this Deed Restriction's termination under Section 2 hereof. Every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion of the Property shall be deemed to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in that contract, deed or other instrument.

**5. Termination of Deed Restriction.** This Deed Restriction shall terminate upon the occurrence, but only upon the occurrence, of any of the following:

- (a) Borrower has provided evidence acceptable to Lender in Lender's sole discretion, that Owner has fully complied with all covenants contained in Section 2 of this Deed Restriction; or

- (b) Borrower has paid Lender any and all amounts owing or which may be owed under Section 3 of this Deed Restriction (for the avoidance of doubt, and notwithstanding anything to the contrary contained in this Deed Restriction or any Loan Document, this Deed Restriction shall survive the payment in full of the Loan); or
- (c) A land use restriction agreement or deed restriction, acceptable to Lender in Lender's sole discretion, has been recorded against the Property in connection with the construction of the Affordable Housing Project.

6. **Governing Law.** This Deed Restriction shall be governed by and construed in accordance with the laws of the State of Utah and the United States of America, as applicable.

7. **Statutes and Regulations.** Any reference in this Deed Restriction to a statute or regulation shall include all amendments to and successors to such statute or regulation, whether adopted before or after the date of this Deed Restriction.

8. **Counterparts.** This Deed Restriction may be signed in any number of counterparts, each of which shall be an original for all purposes, but all of which taken together shall constitute only one agreement. The production of any executed counterpart of this Deed Restriction shall be sufficient for all purposes without producing or accounting for any other counterpart.

9. **Priority.** This Deed Restriction shall be senior to the Trust Deed notwithstanding the order of the recording of this Deed Restriction or the Trust Deed.

*[SIGNATURE PAGE(S) AND EXHIBIT(S),  
IF ANY, FOLLOW THIS PAGE]*

BORROWER

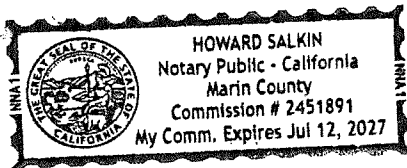
**269 BROOKLYN LLC,**  
a Utah limited liability company

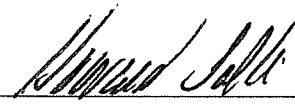
By: George F. Hauser 1988  
Revocable Inter-Vivos Trust  
Its: Sole Member

By:   
George F. Hauser  
Its: Trustee

STATE OF ~~UTAH~~ CALIFORNIA )  
COUNTY OF MARIN ) : ss.

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of December, 2023, by George F. Hauser, Trustee of the George F. Hauser 1988 Revocable Inter-Vivos Trust, Sole Member of 269 Brooklyn LLC, a Utah limited liability company.



  
NOTARY PUBLIC  
Residing at: 3001 Bridgeway  
Sausalito, CA 94965

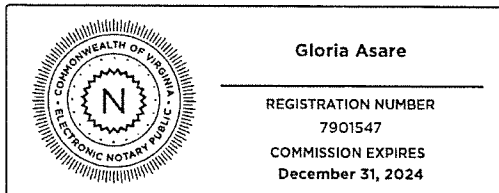
JCI

**JCI, INC.,**  
a Utah corporation

By: Jess Curtis  
Jess Curtis  
Its: President

GA  
STATE OF ~~UTAH~~ Virginia )  
COUNTY OF Loudoun : ss.  
)

The foregoing instrument was acknowledged before me this 21st day of December, 2023,  
by Jess Curtis, President of JCI, Inc., a Utah corporation.




Gloria Asare  
NOTARY PUBLIC  
Residing at: Loudoun, VA  
Registration Number: 7901547  
Expires: 12/31/2024  
Electronic Notary Public  
Notarized online using audio-video communication

POOR COPY  
- CO RECORDER -

**UTAH EQUITABLE TOD FUND LLC,**  
a Utah limited liability company

By:

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

 JENNIFER MAE BREWER  
Notary Public, State of Utah  
Commission # 730542  
My Commission Expires  
June 9th, 2027

\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: Salt Lake County

## **EXHIBIT A**

### **REAL PROPERTY DESCRIPTION**

The real property located in Salt Lake County, State of Utah, and more particularly described as follows:

**PARCEL 1:**

THE WEST 10 FEET OF LOT 4, ALL OF LOT 5 AND THE EAST 2 1/2 OF LOT 6, BLOCK 2, WEST DRIVE SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED IN BOOK "B" OF PLATS AT PAGE 91 IN THE OFFICIAL RECORDS OF THE SALT LAKE COUNTY RECORDER.

**PARCEL 2:**

THE WEST 22 1/2 FEET OF LOT 6, ALL OF LOT 7 AND THE EAST 12 1/2 FEET OF LOT 8, BLOCK 2, WEST DRIVE SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED IN BOOK "B" OF PLATS AT PAGE 91 IN THE OFFICIAL RECORDS OF THE SALT LAKE COUNTY RECORDER.

**PARCEL 3:**

THE WEST HALF OF LOT 8, ALL OF LOTS 9, 10, 11 AND 12, BLOCK 2, WEST DRIVE SUBDIVISION, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED IN BOOK "B" OF PLATS AT PAGE 91 IN THE OFFICIAL RECORDS OF THE SALT LAKE COUNTY RECORDER.