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RASHELLE HOBBS  
Recorder, Salt Lake County, UT  
COTTONWOOD TITLE  
BY: eCASH, DEPUTY - EF 9 P.

THIS INSTRUMENT WAS PREPARED BY,  
RECORDING REQUESTED BY,  
AND WHEN RECORDED MAIL TO:

James H. Jones, Esq.  
SNELL & WILMER L.L.P.  
15 West South Temple, Suite 1200  
Salt Lake City, Utah 84101

137751 - DMF

Space above for Recorder's Use

## SUBORDINATION AGREEMENT – DECLARATION OF RESTRICTIONS

This Subordination Agreement – Declaration of Restrictions (“*Agreement*”) is made as of July 21, 2021, by and among **HOLLADAY HILLS BLOCK D L.L.C.** (“*Declarant*”) and **JACOBSEN CONSTRUCTION COMPANY, INC.** (“*Contractor*”) in favor of **WASHINGTON FEDERAL BANK, NATIONAL ASSOCIATION**, and its successors, participants and assigns (“*Lender*”).

### FACTUAL BACKGROUND

A. Declarant and Contractor have entered into that certain Declaration of Restrictions recorded on June 17, 2021 in the official records of Salt Lake County as Document #13694026 (“*Agreement*”), covering certain premises located in Salt Lake County, Utah (the “*Property*”), which Agreement imposes certain restrictive covenants on the Property as set forth therein. The Property is more particularly described in Exhibit A attached hereto and incorporated herein.

B. Lender is the beneficiary of a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (“*Deed of Trust*”), dated July 21, 2021 and recorded in the official records of Salt Lake County, which Deed of Trust encumbers the Property. The Deed of Trust secures certain obligations to Lender and one or more other lenders as more particularly described therein (the “*Secured Obligations*”).

C. It is a condition to Lender extending the Secured Obligations that the lien of the Deed of Trust shall at all times be senior and prior to the interest of Contractor under the Agreement.

### AGREEMENT

Therefore, Contractor and Declarant agree for the benefit of Lender as follows:

1. The lien of the Deed of Trust, and any renewals, extensions, modifications and supplements thereto, shall unconditionally be and remain at all times a lien or charge on the Property prior and superior to the Agreement and to all rights and privileges of Contractor thereunder.

2. Contractor and Declarant intentionally and unconditionally waives, relinquishes and subordinates their interests under the Agreement in favor of the lien of the Deed of Trust and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination, a loan or other credit accommodation will be made and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination.

3. This Agreement binds the Declarant, Contractor, and Lender and their respective heirs, personal representatives, successors and assigns, and benefits the Lender, its successors and assigns. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same agreement. This Agreement may not be amended or modified except by a writing signed by each of the parties to this Agreement.

4. This Agreement is delivered in the State of Utah and shall be governed by and construed in accordance with Utah law (without giving effect to conflict of laws principles). The Contractor and Declarant agree that any legal action or proceeding against it with respect to any of its obligations under this Agreement may be brought in any state or federal court located in such state, as the Lender in its sole discretion may elect. By the execution and delivery of this Agreement, the Contractor and Declarant submit to and accepts, for themselves and in respect of their property, generally and unconditionally, the jurisdiction of those courts. The Contractor and Declarant waive any claim that the State of Utah is not a convenient forum or the proper venue for any such suit, action or proceeding.

5. THE CONTRACTOR, DECLARANT, AND LENDER HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED ON CONTRACT, TORT, OR OTHERWISE) AMONG THE CONTRACTOR, DECLARANT, AND LENDER ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS DOCUMENT. THIS PROVISION IS A MATERIAL INDUCEMENT TO THE LENDER TO PROVIDE OR CONTINUE PROVIDING THE FINANCING TO DECLARANT.

[Remainder of Page Intentionally Left Blank]

Handwritten signature or initials in black ink, located in the bottom right corner of the page.

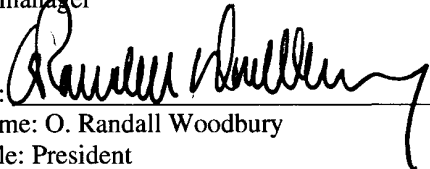
IN WITNESS WHEREOF, the undersigned have executed this Subordination Agreement as of the day and year first above written.

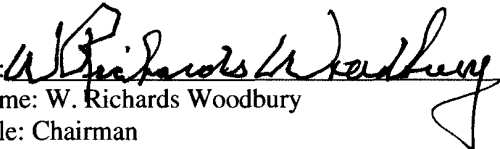
DECLARANT:

**HOLLADAY HILLS BLOCK D L.L.C.**  
a Delaware limited liability company

By: WCL GP L.L.C.  
a Delaware limited liability company  
its manager

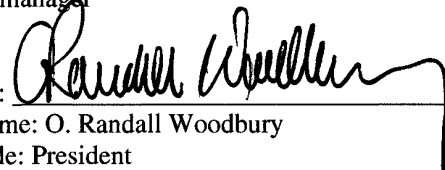
By: WOODBURY CORPORATION  
a Utah corporation  
its manager

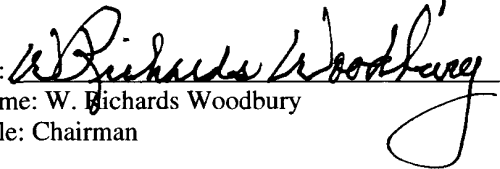
By:   
Name: O. Randall Woodbury  
Title: President

By:   
Name: W. Richards Woodbury  
Title: Chairman

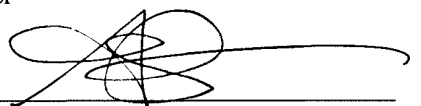
By: KMW DEVELOPMENT L.L.C.  
a Utah limited liability company  
its manager

By: WOODBURY CORPORATION  
a Utah corporation  
its manager

By:   
Name: O. Randall Woodbury  
Title: President

By:   
Name: W. Richards Woodbury  
Title: Chairman

By: MILLROCK CAPITAL II, LLC  
a Utah limited liability company  
its manager

By:   
Name: Steve Peterson  
Title: Manager


CONTRACTOR:

Name: Steve Peterson

Title: Manager

JACOBSEN CONSTRUCTION COMPANY, INC.,  
a Utah corporation

By:

  
Name: P. SCOTT ROBERTSON

Title: VP, GENERAL CONSTR



ACKNOWLEDGEMENTS

State of Utah )

ss.

County of Salt Lake

On this 10<sup>th</sup> day of July, in the year 2021, before me Tiffany Steele, a notary public, personally appeared O. RANDALL WOODBURY, the President of Woodbury Corporation, a Utah corporation, the manager of WCL GP L.L.C., a Delaware limited liability company, the manager of **HOLLADAY HILLS BLOCK D L.L.C.**, a Delaware limited liability company, proved on the basis of satisfactory evidence to be the persons whose name is subscribed to in this document, and acknowledged he executed the same.

(Notary Seal)



Tiffany Steele  
Notary Signature

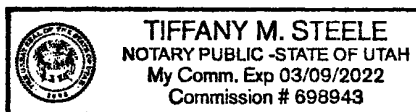
State of Utah )

ss.

County of Salt Lake

On this 16<sup>th</sup> day of July, in the year 2021, before me Tiffany Steele, a notary public, personally appeared W. RICHARDS WOODBURY, the Chairman of Woodbury Corporation, a Utah corporation, the manager of WCL GP L.L.C., a Delaware limited liability company, the manager of **HOLLADAY HILLS BLOCK D L.L.C.**, a Delaware limited liability company, proved on the basis of satisfactory evidence to be the persons whose name is subscribed to in this document, and acknowledged he executed the same.

(Notary Seal)



Tiffany Steele  
Notary Signature

[Acknowledgements continue on the following page]

*Handwritten initials*

State of Utah )

County of Salt Lake ss.

On this 16<sup>th</sup> day of July, in the year 2021, before me Tiffany Steele, a notary public, personally appeared O RANDALL WOODBURY, the President of Woodbury Corporation, a Utah corporation, the manager of KMW Development L.L.C., a Utah limited liability company, the manager of **HOLLADAY HILLS BLOCK D L.L.C.**, a Delaware limited liability company, proved on the basis of satisfactory evidence to be the persons whose name is subscribed to in this document, and acknowledged he executed the same.

(Notary Seal)

Tiffany Steele  
Notary Signature



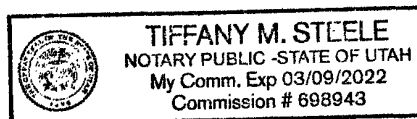
State of Utah )

County of Salt Lake ss.

On this 16<sup>th</sup> day of JULY, in the year 2021, before me Tiffany Steele, a notary public, personally appeared W. RICHARDS WOODBURY, the Chairman of Woodbury Corporation, a Utah corporation, the manager of KMW Development L.L.C., a Utah limited liability company, the manager of **HOLLADAY HILLS BLOCK D L.L.C.**, a Delaware limited liability company, proved on the basis of satisfactory evidence to be the persons whose name is subscribed to in this document, and acknowledged he executed the same.

(Notary Seal)

Tiffany Steele  
Notary Signature



[Acknowledgements continue on the following page]

W  
W

State of Utah )

ss.

County of Salt Lake

On this 19<sup>th</sup> day of July, in the year 2021, before me Tiffany Steele, a notary public, personally appeared STEVE PETERSON, the Manager of MILLROCK CAPITAL II, LLC, a Utah limited liability company, a manager of KMW DEVELOPMENT L.L.C., a Utah limited liability company, a manager of **HOLLADAY HILLS BLOCK D L.L.C.**, a Delaware limited liability company, proved on the basis of satisfactory evidence to be the persons whose name is subscribed to in this document, and acknowledged he executed the same.

(Notary Seal)

Tiffany Steele  
Notary Signature



State of \_\_\_\_\_ )

ss.

County of \_\_\_\_\_)

On this \_\_\_ day of \_\_\_\_\_, in the year 2021, before me \_\_\_\_\_, a notary public, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of JACOBSEN CONSTRUCTION COMPANY, INC., a Utah corporation, proved on the basis of satisfactory evidence to be the persons whose name is subscribed to in this document, and acknowledged he executed the same.

(Notary Seal)

\_\_\_\_\_  
Notary Signature

TS  
BL

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.

On this \_\_\_ day of \_\_\_\_\_, in the year 2021, before me \_\_\_\_\_, a notary public, personally appeared STEVE PETERSON, the Manager of MILLROCK CAPITAL II, LLC, a Utah limited liability company, a manager of KMW DEVELOPMENT L.L.C., a Utah limited liability company, a manager of HOLLADAY HILLS BLOCK D L.L.C., a Delaware limited liability company, proved on the basis of satisfactory evidence to be the persons whose name is subscribed to in this document, and acknowledged he executed the same.

(Notary Seal)

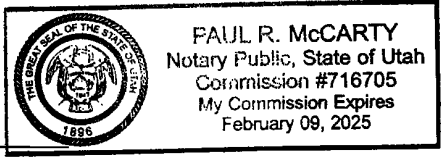
\_\_\_\_\_  
Notary Signature

State of UTAH )  
County of SALT LAKE ) ss.

On this 20<sup>th</sup> day of JULY, in the year 2021, before me PAUL R. McCarty, a notary public, personally appeared D. Scott Degraffenried the VP, General Counsel of JACOBSEN CONSTRUCTION COMPANY, INC., a Utah corporation, proved on the basis of satisfactory evidence to be the persons whose name is subscribed to in this document, and acknowledged he executed the same.

(Notary Seal)

Paul R. McCarty  
Notary Signature





**EXHIBIT A**

**Property Legal Description**

Real property in the County of Salt Lake County, State of Utah, described as follows:

Block D Lot 1, Block D Lot 2, and Block D Lot 3, ROYAL HOLLADAY HILLS SUBDIVISION #1, according to the official plat thereof, recorded July 7, 2020, as Entry No. 13321547 in Book 2020P at Page 168, on file and of record in the office of the Salt Lake County Recorder.

Parcel Nos.: 22092280310000, 22092280320000, and 22092280330000

