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HEN RECORDED RETURN TO:
TMM DEVELOPMENT, L.L.C.
1196 East 1220 North
Orem, Utah 84097-5433

ENT 119314:2002 PG 1 of 10
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2002 Oct 09 12:17 pm FEE 123.00 BY JRD
RECORDED FOR TMM DEVELOPMENT LLC

**FIRST SUPPLEMENT TO THE
DECLARATION OF CONDOMINIUM FOR WESTBURY AT PHEASANT POINTE**
an expandable Utah condominium project

This FIRST SUPPLEMENT TO THE DECLARATION OF CONDOMINIUM FOR WESTBURY AT PHEASANT POINTE, an expandable Utah condominium project, is made and executed by TMM DEVELOPMENT, L.L.C., a Utah limited liability company, of 1196 East 1220 North, Orem, Utah 84097 (the "Declarant").

RECITALS

Whereas, the original Declaration of Condominium for WESTBURY AT PHEASANT POINTE was recorded in the office of the County Recorder of Utah County, Utah on the 9th day of October, 2002 as Entry No. 119306 in Book 2002 at Page(s) 1 to 19 of the Official Records of the County Recorder of Utah County, Utah (the "Declaration").

Whereas, the related Plat Map(s) for Phase II of the Project have also been recorded in the office of the County Recorder of Utah County, Utah.

Whereas, under Article III, Section 45 of the Declaration, Declarant reserved an option, until the seven (7) years from the date following the first conveyance of a Unit in Phase I to a Unit purchaser, to expand the Project in accordance with the Act.

Whereas, Declarant is the fee simple owner of record of that certain real property located in Utah County, Utah and described with particularity on Exhibit "A-2" attached hereto and incorporated herein by this reference (collectively, "Phases 2-8 Property").

Whereas, under the provisions of the Declaration, Declarant expressly reserved the absolute right, subject to the approval of the Department of Veterans Affairs, to add to the Project any or all portions of the Additional Land at any time and in any order, without limitation.

Whereas, Declarant desires to expand the Project by creating on the Phases 2-8 Property a residential condominium development.

Whereas, Declarant now intends that the " Phases 2-8 Property shall become subject to the Declaration.

AGREEMENT

ENT 119314:2002 PG 2 of 10

NOW, THEREFORE, for the reasons recited above, and for the benefit of the Project and the Unit Owners thereof, Declarant hereby executes this FIRST SUPPLEMENT TO THE DECLARATION OF CONDOMINIUM FOR WESTBURY AT PHEASANT POINTE.

1. **Supplement to Definitions.** Article I of the Declaration, entitled "Definitions," is hereby modified to include the following supplemental definitions:

A. **First Supplement to the Declaration** shall mean and refer to this FIRST SUPPLEMENT TO THE DECLARATION OF CONDOMINIUM FOR WESTBURY AT PHEASANT POINTE.

B. **First Supplemental Map(s) or Phases 2-8 Property Map(s)** shall mean and refer to the Supplemental Plat Map(s) for the additional phases of the Project described on Exhibit "A-2," prepared and certified to by Dennis P. Carlisle, a duly registered Utah Land Surveyor holding Certificate No. 172675, and filed for record in the Office of the County Recorder of Utah County, Utah concurrently with the filing of this First Supplement to the Declaration.

Except as otherwise herein provided, the definition of terms contained in the Declaration are incorporated herein by this reference.

2. **Legal Description.** The real property described in Exhibit "A-2" is hereby submitted to the provisions of the Act and said land shall be held, transferred, sold, conveyed and occupied subject to the provisions of the Declaration, as supplemented.

3. **Annexation.** Declarant hereby declares that the " Phases 2-8 Property shall be annexed to and become subject to the Declaration, which upon recordation of this First Supplement to the Declaration shall constitute and effectuate the expansion of the Project, making the real property described in Exhibits "A-2" subject to the functions, powers, rights, duties and jurisdiction of the Association.

4. **Total Number of Units Revised.** As shown on the Map(s), each Phase will add one Building and twelve (12) Units. In all, eighty-four (84) additional Units are or will be constructed and/or created in the Project on the " Phases 2-8 Property. The additional Buildings and Units are located within a portion of the Additional Land. Upon the recordation of the Maps for the additional Phases and this First Supplement to the Declaration, the total number of Units in the Project will be ninety-six (96). The additional Buildings and Units in each Phase are or will be substantially similar in construction, design, and quality to the Building and Units in the prior Phase(s).

5. **Percentage Interest Revised.** Pursuant to the Act and the Declaration, Declarant is required, with the additional Units, to reallocate the undivided percentages of ownership interest in the Common Areas and Facilities. Exhibit "C" (Percentages of Undivided Ownership

Interests) to the Declaration is hereby deleted in its entirety and "Revised Exhibit 'C,'" attached hereto and incorporated herein by this reference, is substituted in lieu thereof.

6. **Effective Date.** The effective date of this First Supplement to the Declaration and the Phases 2-8 Map(s) shall be the date on which said instruments are filed for record in the Office of the County Recorder of Utah County, Utah.

EXECUTED the 2 day of October, 2002.

TMM DEVELOPMENT, L.L.C.,
a Utah limited liability company

By: Donald E
Name: DONALD E. MULLEN
Title: Member

STATE OF UTAH)
)ss:
COUNTY OF UTAH)

On the 2 day of October, 2002 personally appeared before me DONALD E. MULLEN, who by me being duly sworn, did say that he is the Member of TMM DEVELOPMENT, L.L.C., a Utah limited liability company, and that the within and foregoing instrument was signed in behalf of said Company by authority of a resolution of its Members, and said DONALD E. MULLEN duly acknowledged to me that said Company executed the same.

Krisel P. Travis
NOTARY PUBLIC
Residing At:
Commission Expires:



EXHIBIT "A-2"

**WESTBURY AT PHEASANT POINTE
LEGAL DESCRIPTION**

The land described in the foregoing document as the Phases 2-8 Property is located in Utah County, Utah and is described more particularly as follows:

Phase 2 of Westbury at Pheasant Pointe

BEGINNING AT A POINT LOCATED S0°09'44"W ALONG THE SECTION LINE 1,012.76 FEET AND WEST 1,002.42 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M.; THENCE

COURSE	DISTANCE	REMARKS
SOUTH	131.32	
S69°01'38"W	79.85	
S29°38'48"W	36.03	
N60°20'54"W	8.45	
N29°38'48"E	23.50	
N60°20'55"W	66.84	
N29°52'00"E	62.83	
N25°13'26"E	18.54	
N29°52'00"E	71.82	
EAST	71.24	TO THE POINT OF BEGINNING
		CONTAINS: 0.39 ACRES

BASIS OF BEARING: ALONG SECTION LINE AS SHOWN

Phase 3 of Westbury at Pheasant Pointe

BEGINNING AT A POINT LOCATED S0°09'44"W ALONG THE SECTION LINE 1,144.08 FEET AND WEST 1,002.05 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M.; THENCE

COURSE	DISTANCE	REMARKS
SOUTH	70.55	
S26°17'18"E	25.75	
S6°42'29"W	89.10	
N60°43'35"W	141.62	
N29°38'48"E	96.98	
N69°01'38"E	79.85	TO THE POINT OF BEGINNING
		CONTAINS: 0.33 ACRES

BASIS OF BEARING: ALONG SECTION LINE AS SHOWN

EXHIBIT "A-2"
Continued
Phase 4 of Westbury at Pheasant Pointe

BEGINNING AT A POINT LOCATED S0°09'44"W ALONG THE SECTION LINE 804.06 FEET AND WEST 1,076.64 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M.; THENCE

COURSE	DISTANCE	REMARKS
SOUTH	130.10	
WEST	40.22	
S29°37'00"W	45.34	
N60°03'00"W	81.00	
N13°24'16"E	185.29	
S56°02'00"E	6.22	
ALONG AN ARC	L=97.31	R=608.00 Δ =9°10'11" CH=S60°37'05"E 97.20
		TO THE POINT OF BEGINNING
		CONTAINS: 0.45 ACRES
BASIS OF BEARING: ALONG SECTION LINE AS SHOWN		

Phase 5 of Westbury at Pheasant Pointe

BEGINNING AT A POINT LOCATED S0°09'44"W ALONG THE SECTION LINE 970.06 FEET AND WEST 1,230.25 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M.; THENCE

COURSE	DISTANCE	REMARKS
S29°57'00"W	37.39	
S60°03'00"E	81.01	
S29°52'00"W	78.53	
N60°20'55"W	152.31	
N30°02'30"E	36.17	
N16°00'00"E	61.02	
S74°00'00"E	88.45	TO THE POINT OF BEGINNING
		CONTAINS: 0.33 ACRES
BASIS OF BEARING: ALONG SECTION LINE AS SHOWN		

EXHIBIT "A-2"
Continued
Phase 6 of Westbury at Pheasant Pointe

BEGINNING AT A POINT LOCATED S0°09'44"W ALONG THE SECTION LINE 833.53 FEET AND WEST 1,185.63 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M.; THENCE

COURSE	DISTANCE	REMARKS
S13°24'16"W	102.39	
S29°57'00"W	42.61	
N74°00'00"W	88.45	
N16°00'00"E	141.37	
S75°23'00"E	94.11	TO THE POINT OF BEGINNING
		CONTAINS: 0.31 ACRES

BASIS OF BEARING: ALONG SECTION LINE AS SHOWN

Phase 7 of Westbury at Pheasant Pointe

BEGINNING AT A POINT LOCATED S0°09'44"W ALONG THE SECTION LINE 752.89 FEET AND WEST 1,166.64 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M.; THENCE

COURSE	DISTANCE	REMARKS
S13°24'16"W	82.90	
N75°23'00"W	94.11	
N55°16'00"W	94.29	
N34°10'03"E	87.97	
N55°49'57"W	13.00	
N34°10'03"E	4.57	
ALONG AN ARC	L=23.51	R=15.00 Δ=89°47'57" CH=N79°04'02"E 21.18
S56°02'00"E	151.64	TO THE POINT OF BEGINNING
		CONTAINS: 0.40 ACRES

BASIS OF BEARING: ALONG SECTION LINE AS SHOWN

EXHIBIT "A-2"
Continued
Phase 8 of Westbury at Pheasant Pointe

BEGINNING AT A POINT LOCATED $S0^{\circ}09'44''W$ ALONG THE SECTION LINE 839.40 FEET AND WEST 1,367.36 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M. THENCE

COURSE	DISTANCE	REMARKS
$S16^{\circ}00'00''W$	64.25	
$S11^{\circ}31'58''W$	19.26	
$S16^{\circ}00'00''W$	53.87	
$S34^{\circ}54'50''W$	17.66	
$S30^{\circ}21'20''W$	91.26	
ALONG AN ARC	L-102.01	R-5,630.00 $\Delta=1^{\circ}02'17''$ CH-N $58^{\circ}05'58''W$ 102.01
$N34^{\circ}06'00''E$	148.35	
$N55^{\circ}54'00''W$	90.38	
$N34^{\circ}44'00''E$	95.92	
$S55^{\circ}16'00''E$	141.47	TO THE POINT OF BEGINNING
		CONTAINS: 0.67 ACRES
BASIS OF BEARING: ALONG SECTION LINE AS SHOWN		

REVISED EXHIBIT "C"
PERCENTAGES OF UNDIVIDED OWNERSHIP INTEREST

Phase	Bldg. No.	Unit No.	Parcel No.	Percentage of Ownership Interest
1	1		1-A	1.0416%
1	1		1-B	1.0416%
1	1		1-C	1.0416%
1	1		1-D	1.0416%
1	1		1-E	1.0416%
1	1		1-F	1.0416%
1	1		1-G	1.0416%
1	1		1-H	1.0416%
1	1		1-I	1.0416%
1	1		1-J	1.0416%
1	1		1-K	1.0416%
1	1		1-L	1.0416%
2	2		2-A	1.0416%
2	2		2-B	1.0416%
2	2		2-C	1.0416%
2	2		2-D	1.0416%
2	2		2-E	1.0416%
2	2		2-F	1.0416%
2	2		2-G	1.0416%
2	2		2-H	1.0416%
2	2		2-I	1.0416%
2	2		2-J	1.0416%
2	2		2-K	1.0416%
2	2		2-L	1.0416%
3	3		3-A	1.0416%
3	3		3-B	1.0416%
3	3		3-C	1.0416%
3	3		3-D	1.0416%
3	3		3-E	1.0416%
3	3		3-F	1.0416%
3	3		3-G	1.0416%
3	3		3-H	1.0416%
3	3		3-I	1.0416%
3	3		3-J	1.0416%
3	3		3-K	1.0416%
3	3		3-L	1.0416%

Phase	Bldg. No.	Unit No.	Parcel No.	Percentage of Ownership Interest
4	4		4-A	1.0416%
4	4		4-B	1.0416%
4	4		4-C	1.0416%
4	4		4-D	1.0416%
4	4		4-E	1.0416%
4	4		4-F	1.0416%
4	4		4-G	1.0416%
4	4		4-H	1.0416%
4	4		4-I	1.0416%
4	4		4-J	1.0416%
4	4		4-K	1.0416%
4	4		4-L	1.0416%
5	5		5-A	1.0416%
5	5		5-B	1.0416%
5	5		5-C	1.0416%
5	5		5-D	1.0416%
5	5		5-E	1.0416%
5	5		5-F	1.0416%
5	5		5-G	1.0416%
5	5		5-H	1.0416%
5	5		5-I	1.0416%
5	5		5-J	1.0416%
5	5		5-K	1.0416%
5	5		5-L	1.0416%
6	6		6-A	1.0416%
6	6		6-B	1.0416%
6	6		6-C	1.0416%
6	6		6-D	1.0416%
6	6		6-E	1.0416%
6	6		6-F	1.0416%
6	6		6-G	1.0416%
6	6		6-H	1.0416%
6	6		6-I	1.0416%
6	6		6-J	1.0416%
6	6		6-K	1.0416%
6	6		6-L	1.0416%

Phase	Bldg. No.	Unit No.	Parcel No.	Percentage of Ownership Interest
7	7		7-A	1.0416%
7	7		7-B	1.0416%
7	7		7-C	1.0416%
7	7		7-D	1.0416%
7	7		7-E	1.0416%
7	7		7-F	1.0416%
7	7		7-G	1.0416%
7	7		7-H	1.0416%
7	7		7-I	1.0416%
7	7		7-J	1.0416%
7	7		7-K	1.0416%
7	7		7-L	1.0416%
8	8		8-A	1.0416%
8	8		8-B	1.0416%
8	8		8-C	1.0416%
8	8		8-D	1.0416%
8	8		8-E	1.0416%
8	8		8-F	1.0416%
8	8		8-G	1.0416%
8	8		8-H	1.0416%
8	8		8-I	1.0416%
8	8		8-J	1.0416%
8	8		8-K	1.0416%
8	8		8-L	1.0416%
TOTAL				100%