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Book - 10673 Pg - 8586-8602  
ADAM GARDINER  
RECORDER, SALT LAKE COUNTY, UTAH  
TYLER L BUSWELL  
50 E SOUTH TEMPLE  
SLC UT 84111  
BY: PSP, DEPUTY - WI 17 P.

WHEN RECORDED, PLEASE RETURN TO:

Tyler L. Buswell  
Kirton McConkie  
50 E. South Temple  
Salt Lake City, Utah 84111

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FIFTH AMENDMENT TO  
AMENDED AND RESTATED  
DECLARATION OF CONDOMINIUM  
OF  
99 WEST CONDOMINIUMS  
[a leasehold condominium project]

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Effective as of May 9, 2018

4830-9266-2347

Ent 12770812 BK 10673 PG 8586

**FIFTH AMENDMENT TO  
AMENDED AND RESTATED  
DECLARATION OF CONDOMINIUM  
OF  
99 WEST CONDOMINIUMS**

THIS FIFTH AMENDMENT TO AMENDED AND RESTATED DECLARATION OF CONDOMINIUM OF 99 WEST CONDOMINIUMS (this “**Amendment**”) is entered into this \_\_\_\_ day of May, 2018, by 99 West Condominium Owners Association, Inc., a Utah non-profit corporation.

RECITALS

A. Declarant previously subjected that certain real property described in Exhibit A attached hereto (the “**Real Property**”) to that certain Declaration of Condominium of Promontory on South Temple Condominiums, recorded in the Recorder’s Office of Salt Lake County, State of Utah, as Entry No. 11124992, in Book 9901, beginning at Page 7021, on January 28, 2011, as amended by that certain Amended and Restated Declaration of Condominium of 99 West Condominiums, recorded in the Recorder’s Office of Salt Lake County, State of Utah, as Entry No. 11690025, in Book 10162, beginning at Page 486, on July 23, 2013, that certain First Amendment to Amended and Restated Declaration of Condominium of 99 West Condominiums, recorded in the Recorder’s Office of Salt Lake County, State of Utah, as Entry No. 11815253, in Book 10216, beginning at Page 78, on March 7, 2014, and that certain Second Amendment to Amended and Restated Declaration of Condominium of 99 West Condominiums, recorded in the Recorder’s Office of Salt Lake County, State of Utah, as Entry No. 11905783, in Book 10256, beginning at Page 8158, on August 29, 2014, that certain Third Amendment to Amended and Restated Declaration of Condominium of 99 West Condominiums, recorded in the Recorder’s Office of Salt Lake County, State of Utah, as Entry No. 12438281, in Book 10513, beginning at Page 912, on December 20, 2016, that certain Fourth Amendment to Amended and Restated Declaration of Condominium of 99 West Condominiums, recorded in the Recorder’s Office of Salt Lake County, State of Utah, as Entry No. 12635835, in Book 10608, beginning at Page 5122, on October 13, 2017 (collectively, the “**Declaration**”).

B. Declarant deems it necessary and desirable to (a) consolidate two (2) existing units, Units #2501, and #2503, into one (1) unit to be known as Unit #2501 and otherwise amend the Declaration as set forth in this Amendment.

DECLARATION

NOW, THEREFORE, the Declaration is hereby amended as set forth below:

1. **General Description of Project.** Notwithstanding any language to the contrary in the Declaration, the Building shall hereafter contain one hundred seventy-five (175) residential Units.

2. **Ownership Interest.** Exhibit B of the Declaration is hereby deleted in its entirety and replaced with Exhibit B-1, attached hereto and incorporated herein by this reference.

3. **Common Area; Approval of Owners.** 99 West Condominiums Owners Association, Inc., a Utah non-profit corporation, on behalf of all Owners, hereby quitclaims to Dale F. Ostler, an individual, all Common Area that were identified on the Plat that are now included as part of Unit #2501. 99 West Condominiums Owners Association, Inc., a Utah non-profit corporation, obtained all of the necessary approvals and consents from Owners to effectuate the conveyance of such Common Area to Dale F. Ostler, the Owner of Unit #2501. Without limiting the generality of the foregoing, more than sixty-seven percent (67%) of all condominium unit owners within the Project have consented to the conveyance of such Common Area to Dale F. Ostler, as is required under Utah Code § 10-9a-606(5)(b), Utah Code § 57-8-7(3), and Utah Code § 57-8-32.

4. **Defined Terms.** Except as otherwise expressly provided herein, capitalized terms used in this Amendment shall have the meanings given them in the Declaration.

5. **Conflicting Provisions; Ratification.** Declarant reserves any and all rights and interests existing pursuant to the Declaration which are not affected by this Amendment and except as expressly modified herein, the Declaration remains in full force and effect in accordance with its terms. This Amendment amends the Declaration. In the event of any conflict or inconsistency between the terms of this Amendment and the terms of the Declaration, the terms of this Amendment shall control.

[SIGNATURES TO FOLLOW]

SIGNATURE PAGE

This Amendment is signed and executed as of the date first set forth above.

99 WEST CONDOMINIUMS  
OWNERS ASSOCIATION, INC.,  
a Utah non-profit corporation

By: [Signature]

Name: Kim R. Wilson

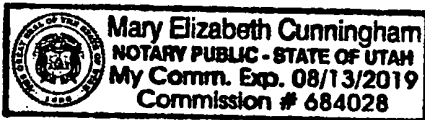
Title: President

By: [Signature]

Name: Louis E. Miller

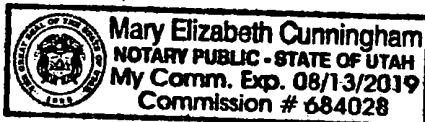
Title: Treasurer

On this \_\_\_ day of May, 2018, personally appeared before me Kim R. Wilson known or satisfactorily proved to me to be the President of 99 West Condominiums Owners Association, Inc., a Utah non-profit corporation, who acknowledged to me that he signed the foregoing instrument in his capacity as President for said Corporation.



[Signature]  
NOTARY PUBLIC

On this 8<sup>th</sup> day of May, 2018, personally appeared before me Louis E. Miller known or satisfactorily proved to me to be the Treasurer of 99 West Condominiums Owners Association, Inc., a Utah non-profit corporation, who acknowledged to me that he signed the foregoing instrument in his capacity as \_\_\_\_\_ for said Corporation.



[Signature]  
NOTARY PUBLIC

ACKNOWLEDGEMENT OF AIRSPACE LESSOR

On this \_\_\_\_ day of May, 2018, the undersigned, as the current fee simple owner of the Real Property subject to the Declaration and this Amendment, hereby acknowledges and consents, solely for the purposes of submitting a leasehold interest in the Real Property to the Condominium Act, to the encumbrance of this Amendment on the Property. Without limiting the generality of the foregoing, the undersigned is not signing this Amendment for any other purpose except as set forth above, and the undersigned specifically disclaims any responsibilities, duties, obligations, warranties, representations, or certifications of "Declarant" or any other party set forth herein.

CITY CREEK RESERVE, INC.,  
a Utah nonprofit corporation

By: *Ashley Powell*

Name: Ashley Powell

Its: President

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

On this 4th day of May, 2018, personally appeared before me Ashley Powell who, being by me duly sworn, did say that he is the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in his authorized capacity as President of City Creek Reserve, Inc. a Utah nonprofit corporation, for and on behalf of said corporation.



*Lynette Asay*  
NOTARY PUBLIC

## EXHIBIT A

### LEGAL DESCRIPTION OF REAL PROPERTY

#### Project Boundary Description (Level 2 and Above)

That certain volume of airspace located in Lot 5 of Block 76, Plat 8 of the Official Survey of Plat "A" Salt Lake City Survey, being also in the Northeast Quarter of Section 1, Township 1 South, Range 1 West, Salt Lake Base and Meridian, being more particularly described as follows:

The airspace from and above Elevation 4336.00' within the following horizontal boundaries.

Beginning at the Northwest Corner of said Block 76; and running thence, along the North Line of said Block 76, N89°59'41"E 91.58 feet to the Westerly Line of that certain "Memorandum of Amended and Restated Retail Center Airspace Lease (Block 76-Level 1-Revised 12-14-09)" recorded in Book 9848 at Page 3144 in the Salt Lake County Recorder's Office; thence, along said Westerly Line, the following fourteen (14) courses: (1) South 6.62 feet, (2) East 0.25 feet, (3) Southeasterly 9.08 feet along the arc of a 5.79 foot radius curve to the right, chord bears S44°42'52"E 8.18 feet, (4) South 0.19 feet, (5) East 1.67 feet, (6) South 41.63 feet, (7) Southeasterly 5.47 feet along the arc of a 3.77 foot radius curve to the right, chord bears S45°15'09"E 5.00 feet, (8) South 8.18 feet (9) East 1.45 feet, (10) South 58.16 feet (11) West 0.50 feet, (12) Southwesterly 11.03 feet along the arc of a 7.03 foot radius curve to the right, chord bears S45°50'10"W 9.93 feet, (13) South 0.59 feet, (14) West 96.58 feet to the West Line of said Block 76; thence, along said West Line of Block 76, N00°01'22"W 131.61 feet to the Point of Beginning.

#### P1 Level Boundary Description

That certain volume of airspace located in Lot 5 of Block 76, Plat 8 of the Official Survey of Plat "A", Salt Lake City Survey, being also in the Northeast Quarter of Section 1, Township 1 South, Range 1 West, Salt Lake Base and Meridian, being more particularly described as follows:

The airspace from elevation 4296.50 to elevation 4307.25 within the following horizontal boundaries.

Beginning at a point East 2.13 feet and South 1.98 feet from the Northwest Corner of said Block 76; and running thence East 48.11 feet; thence South 42.75 feet; thence East 19.06 feet; thence South 39.83 feet; thence East 1.01 feet; thence South 24.60 feet; thence West 12.61 feet; thence South 8.50 feet; thence West 12.75 feet; thence North 1.67 feet; thence West 1.09 feet; thence North 30.17 feet;

thence West 19.10 feet; thence South 30.17 feet; thence East 11.23 feet; thence South 11.90 feet; thence West 17.87 feet; thence North 106.17 feet; thence West 15.97 feet; thence North 19.75 feet to the Point of Beginning.

**Level 1 Boundary Description**

That certain volume of airspace located in Lot 5 of Block 76, Plat 8 of the Official Survey of Plat "A" Salt Lake City Survey, being also in the Northeast Quarter of Section 1, Township 1 South, Range 1 West, Salt Lake Base and Meridian, being more particularly described as follows:

The airspace from elevation 4311.75 to elevation 4335.10 within the following horizontal boundaries.

Beginning at a point on the North Line of said Block 76, said point being N89°59'41"E 68.73 feet, along said North Line, from the Northwest corner of said Block 76; and running thence, along said North Line of Block 76, N89°59'41"E 22.85 feet; thence South 6.62 feet; thence East 0.25 feet; thence Southeasterly 9.08 feet along the arc of a 5.79 foot radius curve to the right, chord bears S44°42'52"E 8.18 feet; thence South 0.19 feet; thence East 1.67 feet; thence South 41.63 feet; thence Southeasterly 5.47 feet along the arc of a 3.77 foot radius curve to the right, chord bears S45°15'09"E 5.00 feet; thence South 8.18 feet; thence East 1.45 feet; thence South 19.85 feet; thence West 27.28 feet; thence North 13.02 feet; thence West 7.68 feet; thence South 11.79 feet; thence West 7.17 feet; thence North 1.23 feet; thence West 5.13 feet; thence South 1.23 feet; thence West 7.25 feet; thence North 1.23 feet; thence West 5.58 feet; thence South 1.23 feet; thence West 9.21 feet; thence North 39.83 feet; thence East 8.85 feet; thence North 9.59 feet; thence East 5.18 feet; thence North 6.42 feet; thence East 21.39 feet; thence North 12.37 feet; thence West 1.65 feet; thence North 16.36 feet to the Point of Beginning.

FOR INFORMATIONAL PURPOSES ONLY THE FOLLOWING TAX PARCELS ARE INCLUDED WITHIN THE ABOVE LEGAL DESCRIPTIONS:

15-01-232-001, 15-01-232-002, 15-01-232-003, 15-01-232-004, 15-01-232-005, 15-01-232-006, 15-01-232-007, 15-01-232-008, 15-01-232-009, 15-01-232-010, 15-01-232-011, 15-01-232-012, 15-01-232-013, 15-01-232-014, 15-01-232-015, 15-01-232-016, 15-01-232-017, 15-01-232-018, 15-01-232-019, 15-01-232-020, 15-01-232-021, 15-01-232-022, 15-01-232-023, 15-01-232-024, 15-01-232-025, 15-01-232-026, 15-01-232-027, 15-01-232-028, 15-01-232-029, 15-01-232-030, 15-01-232-031, 15-01-232-032, 15-01-232-033, 15-01-232-034, 15-01-232-035, 15-01-232-036, 15-01-232-037, 15-01-232-038, 15-01-232-039, 15-01-232-040, 15-01-232-041, 15-01-232-042, 15-01-232-043, 15-01-232-044, 15-01-232-045, 15-01-232-046, 15-01-232-047, 15-01-232-048, 15-01-232-049, 15-01-232-050,

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15-01-232-196, 15-01-232-197



**EXHIBIT B-1****OWNERSHIP INTEREST**

<b>Unit Number</b>	<b>Unit Type</b>	<b>Approx. Square Footage of Unit</b>	<b>Voting Rights</b>	<b>Ownership Interest</b>
201	Two Bedroom	1,204	0.483	0.483
202	Two Bedroom	1,384	0.563	0.563
203	Studio	554	0.221	0.221
204	Two Bedroom	1,349	0.543	0.543
205	One Bedroom	858	0.342	0.342
206	Three Bedroom	2,094	0.844	0.844
207	Two Bedroom	1,709	0.684	0.684
301	Two Bedroom	1,204	0.483	0.483
302	Two Bedroom	1,384	0.563	0.563
303	Studio	554	0.221	0.221
304	Two Bedroom	1,349	0.543	0.543
305	One Bedroom	858	0.342	0.342
306	Three Bedroom	2,094	0.844	0.844
307	Two Bedroom	1,709	0.684	0.684
401	Two Bedroom	1,165	0.462	0.462
402	Two Bedroom	1,327	0.543	0.543
403	Studio	538	0.221	0.221
404	Two Bedroom	1,296	0.523	0.523
405	One Bedroom	834	0.342	0.342

406	Combined	3,665	1.467	1.467
501	Two Bedroom	1,165	0.462	0.462
502	Two Bedroom	1,327	0.543	0.543
503	Studio	538	0.221	0.221
504	Two Bedroom	1,296	0.523	0.523
505	One Bedroom	834	0.342	0.342
506	Three Bedroom	2,019	0.804	0.804
507	Two Bedroom	1,646	0.663	0.663
601	Two Bedroom	1,165	0.462	0.462
602	Two Bedroom	1,327	0.543	0.543
603	Studio	538	0.221	0.221
604	Two Bedroom	1,296	0.523	0.523
605	One Bedroom	834	0.342	0.342
606	Three Bedroom	2,019	0.804	0.804
607	Two Bedroom	1,646	0.663	0.663
701	Combined	2,492	1.005	1.005
703	Studio	538	0.221	0.221
704	Two Bedroom	1,296	0.523	0.523
705	One Bedroom	834	0.342	0.342
706	Three Bedroom	2,019	0.804	0.804
707	Two Bedroom	1,646	0.663	0.663
801	Two Bedroom	1,165	0.462	0.462

802	Two Bedroom	1,327	0.543	0.543
803	Studio	538	0.221	0.221
804	Two Bedroom	1,296	0.523	0.523
805	One Bedroom	834	0.342	0.342
806	Three Bedroom	2,019	0.804	0.804
807	Two Bedroom	1,646	0.663	0.663
901	Two Bedroom	1,165	0.462	0.462
902	Two Bedroom	1,327	0.543	0.543
903	Studio	538	0.221	0.221
904	Two Bedroom	1,296	0.523	0.523
905	One Bedroom	834	0.342	0.342
906	Three Bedroom	2,019	0.804	0.804
907	Two Bedroom	1,646	0.663	0.663
1001	Two Bedroom	1,165	0.462	0.462
1002	Two Bedroom	1,331	0.543	0.543
1003	Studio	543	0.221	0.221
1004	Two Bedroom	1,301	0.523	0.523
1005	One Bedroom	834	0.342	0.342
1006	Three Bedroom	2,019	0.804	0.804
1007	Two Bedroom	1,646	0.663	0.663
1101	Two Bedroom	1,165	0.462	0.462
1102	Two Bedroom	1,331	0.543	0.543

1103	Studio	543	0.221	0.221
1104	Two Bedroom	1,301	0.523	0.523
1105	One Bedroom	834	0.342	0.342
1106	Three Bedroom	2,019	0.804	0.804
1107	Two Bedroom	1,646	0.663	0.663
1201	Two Bedroom	1,165	0.462	0.462
1202	Two Bedroom	1,331	0.543	0.543
1203	Studio	543	0.221	0.221
1204	Two Bedroom	1,301	0.523	0.523
1205	One Bedroom	835	0.342	0.342
1206	Three Bedroom	2,019	0.804	0.804
1207	Two Bedroom	1,646	0.663	0.663
1301	Two Bedroom	1,165	0.462	0.462
1302	Two Bedroom	1,331	0.543	0.543
1303	Studio	543	0.221	0.221
1304	Two Bedroom	1,301	0.523	0.523
1305	One Bedroom	835	0.342	0.342
1306	Three Bedroom	2,019	0.804	0.804
1307	Two Bedroom	1,646	0.663	0.663
1401	Two Bedroom	1,178	0.483	0.483
1402	Two Bedroom	1,335	0.543	0.543
1403	Studio	543	0.221	0.221

1404	Two Bedroom	1,301	0.523	0.523
1405	One Bedroom	834	0.342	0.342
1406	Three Bedroom	2,039	0.824	0.824
1407	Two Bedroom	1,662	0.663	0.663
1501	Two Bedroom	1,178	0.483	0.483
1502	Two Bedroom	1,335	0.543	0.543
1503	Studio	543	0.221	0.221
1504	Two Bedroom	1,301	0.523	0.523
1505	One Bedroom	834	0.342	0.342
1506	Three Bedroom	2,039	0.824	0.824
1507	Two Bedroom	1,662	0.663	0.663
1601	Two Bedroom	1,178	0.483	0.483
1602	Two Bedroom	1,335	0.543	0.543
1603	Studio	543	0.221	0.221
1604	Two Bedroom	1,301	0.523	0.523
1605	One Bedroom	834	0.342	0.342
1606	Three Bedroom	2,039	0.824	0.824
1607	Two Bedroom	1,662	0.663	0.663
1701	Two Bedroom	1,178	0.483	0.483
1702	Two Bedroom	1,335	0.543	0.543
1703	Studio	543	0.221	0.221
1704	Two Bedroom	1,301	0.523	0.523

1705	One Bedroom	834	0.342	0.342
1706	Three Bedroom	2,039	0.824	0.824
1707	Two Bedroom	1,662	0.663	0.663
1801	Two Bedroom	1,178	0.483	0.483
1802	Two Bedroom	1,335	0.543	0.543
1803	Studio	543	0.221	0.221
1804	Two Bedroom	1,301	0.523	0.523
1805	One Bedroom	834	0.342	0.342
1806	Three Bedroom	2,039	0.824	0.824
1807	Two Bedroom	1,662	0.663	0.663
1901	Two Bedroom	1,178	0.483	0.483
1902	Two Bedroom	1,335	0.543	0.543
1903	Studio	543	0.221	0.221
1904	Two Bedroom	1,301	0.523	0.523
1905	One Bedroom	834	0.342	0.342
1906	Three Bedroom	2,039	0.824	0.824
1907	Two Bedroom	1,662	0.663	0.663
2001	Two Bedroom	1,177	0.483	0.483
2002	Two Bedroom	1,341	0.543	0.543
2005	Combined	2,684	1.086	1.086
2006	Three Bedroom	2,048	0.824	0.824
2007	Two Bedroom	1,670	0.663	0.663

2101	Two Bedroom	1,177	0.483	0.483
2102	Two Bedroom	1,341	0.543	0.543
2103	Studio	547	0.221	0.221
2104	Two Bedroom	1,303	0.523	0.523
2105	One Bedroom	834	0.342	0.342
2106	Three Bedroom	2,048	0.824	0.824
2107	Two Bedroom	1,670	0.663	0.663
2201	Two Bedroom	1,177	0.483	0.483
2202	Two Bedroom	1,341	0.543	0.543
2203	Studio	547	0.221	0.221
2204	Two Bedroom	1,303	0.523	0.523
2205	One Bedroom	834	0.342	0.342
2206	Three Bedroom	2,048	0.824	0.824
2207	Two Bedroom	1,670	0.663	0.663
2301	Two Bedroom	1,177	0.483	0.483
2302	Two Bedroom	1,341	0.543	0.543
2303	Studio	547	0.221	0.221
2304	Two Bedroom	1,303	0.523	0.523
2305	One Bedroom	834	0.342	0.342
2306	Three Bedroom	2,048	0.824	0.824
2307	Two Bedroom	1,670	0.663	0.663
2401	Two Bedroom	1,191	0.483	0.483

2402	Two Bedroom	1,340	0.543	0.543
2403	Studio	547	0.221	0.221
2404	Two Bedroom	1,303	0.523	0.523
2405	One Bedroom	843	0.342	0.342
2406	Three Bedroom	2,056	0.824	0.824
2407	Two Bedroom	1,670	0.663	0.663
2501	Combined	3,078	1.247	1.247
2504	Two Bedroom	1,303	0.523	0.523
2505	One Bedroom	853	0.342	0.342
2506	Three Bedroom	2,056	0.824	0.824
2507	Two Bedroom	1,670	0.663	0.663
2601	One Bedroom	1,572	0.623	0.623
2602	Two Bedroom	1,176	0.483	0.483
2603	Two Bedroom	1,805	0.724	0.724
2604	Two Bedroom	1,709	0.684	0.684
2605	Two Bedroom	1,690	0.684	0.684
2701	Combined	2,748	1.106	1.106
2703	Two Bedroom	1,805	0.724	0.724
2704	Two Bedroom	1,709	0.684	0.684
2705	Two Bedroom	1,690	0.684	0.684
2800	Entire Floor	7,597	2.812	2.812
2900	Entire Floor	6,399	2.332	2.332



3001	Three Bedroom	3,036	1.226	1.226
3002	Three Bedroom	2,744	1.106	1.106
<b>TOTALS</b>			<b>100.0</b>	<b>100.0</b>