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WHEN RECORDED RETURN TO:
TMM DEVELOPMENT, LC.
1196 East 1220 North
Orem, Utah 84097-5433
(801) 722-9397

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ENT 68993:2005 PG 1 of 14
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2005 Jun 28 10:02 am FEE 287.00 BY AB
RECORDED FOR LEHI CITY CORPORATION

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

This Fifth Supplement to the Declaration of Condominium for Westbury at Pheasant Pointe Condominium, an expandable Utah condominium project, is made and executed by TMM DEVELOPMENT, LC, 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 Condominium was recorded in the office of the County Recorder of Utah County, Utah on the 9th day of October, 2002 as Entry No. 119306:2002 of the Official Records(the "Declaration").

Whereas, the related original Condominium Plat Map, affidavits of withdrawal, supplemental or amended Condominium Plat Maps and supplemental declarations for the Project have also been recorded in the office of the County Recorder of Utah County, Utah.

Whereas the undersigned, pursuant to the Utah Condominium Ownership Act, Utah Code Annotated, Sections 57-8-1 et seq. (1953) as amended and supplemented (the "Act"), and the Declaration withdrew and removed the Phases 15, 16, 17 and 21 Property from the provisions of the Act and the Declaration in order to amend the related Condominium Plat Maps for said Phases to change the Unit layouts.

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 1 to a Unit purchaser, to expand the Project in accordance with the Act and the Declaration.

Whereas, Declarant is the fee simple owner of record of that certain real property located in Utah County, Utah and described with particularity on Exhibits "A-15, 16, 17 and 21" attached hereto and incorporated herein by this reference (collectively "Property").

Whereas, under the provisions of the Declaration, Declarant expressly reserved the right 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 re-submit the Property for Phases 15, 16, 17 and 21 to the provisions of the Act and the Declaration, as modified, and expand the Project by creating on the Property a residential condominium development.

Whereas, Declarant now intends that the Property shall become subject again to the Declaration and the Act.

A G R E E M E N T

NOW, THEREFORE, for the reasons recited above, and for the benefit of the Project and the Unit Owners thereof, Declarant hereby executes this Fifth Supplement to the Declaration of Condominium for Westbury at Pheasant Pointe Condominium.

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

A. Fifth Supplement to the Declaration shall mean and refer to this Fifth Supplement to the Declaration of Condominium for Westbury at Pheasant Pointe Condominium.

B. Fifth Supplemental Map(s) or Amended Phases 15, 16, 17 and 21 Property Map(s) shall mean and refer to the Supplemental Condominium Plat Map(s) for the re-submittal of these additional phases of the Project and land described on Exhibits A-15, 16, 17 and 21, 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 Fifth 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 Exhibits "A-15, 16, 17 and 21 is hereby re-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 Property shall be re-annexed to and become subject again to the Declaration, which upon recordation of this Fifth Supplement to the Declaration shall constitute and effectuate the re-expansion of the Project, making the real property described in Exhibits A-15, 16, 17 and 21 subject again to the functions, powers, rights, duties and jurisdiction of the Association.

4. Total Number of Units Revised. As shown on the Map(s), Phases 15, 16, 17 and 21 will add 4 Buildings and 48 Units to the Project. The additional Buildings and Units are located within a portion of the Additional Land. Upon the re-recordation of the amended Maps for Phase 15, 16, 17 and 21 and this Fifth Supplement to the Declaration, the total number of Units in the Project will again be one hundred sixty-eight (252). The additional Buildings and Units in Phases 15, 16, 17 and 21 are or will be substantially similar in construction, design, and quality to the Buildings and Units in the prior Phases.

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 Fifth Supplement to the Declaration and the Phases 15, 16, 17 and 21 Maps 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 23 day of June, 2005.

TMM DEVELOPMENT, LC.,
a Utah limited liability company

By: *Donald E. Mullen*
Name: Donald E. Mullen
Title: Manager

STATE OF UTAH)
)ss:
COUNTY OF UTAH)



On the 23 day of June, 2005 personally appeared before me DONALD E. MULLEN, who by me being duly sworn, did say that he is the Manager of TMM DEVELOPMENT, LC., 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: Lmdon. UT
Commission Expires: 9-4-05

EXHIBIT "A-15"

LEGAL DESCRIPTION FOR PHASE 15, WESTBURY

The land described in the foregoing document is located in Utah County, Utah and is described more particularly as follows:

BOUNDARY DESCRIPTION

BEGINNING AT A POINT LOCATED S0°09'44"W ALONG THE SECTION LINE 446.86 FEET AND WEST 1,750.32 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M., THENCE:

COURSE	DISTANCE	REMARKS
S34°32'27"W	26.88	
S35°51'24"W	107.84	
S25°25'48"W	33.41	
S33°09'32"W	18.09	
N49°06'20"W	100.14	
S40°53'40"W	73.29	
N49°06'20"W	142.00	
N40°53'40"E	57.03	
N78°00'20"W	143.04	
N53°20'00"W	18.05	
N36°40'00"E	20.00	
N53°20'00"W	62.33	
N42°00'00"E	53.50	
N48°28'02"W	16.36	
N41°20'00"E	72.51	
S48°40'00"E	71.00	
S41°20'00"W	23.67	
S48°40'00"E	59.84	
S75°26'50"E	50.00	
N40°53'40"E	135.22	
S49°06'20"E	153.00	
S77°03'08"E	84.29	
SOUTH	56.61	TO THE POINT OF BEGINNING
		CONTAINS: 1.93 ACRES

BASIS OF BEARING: ALONG SECTION LINE AS SHOWN

LEGAL DESCRIPTION FOR PHASE 16, WESTBURY

The land described in the foregoing document is located in Utah County, Utah and is described more particularly as follows:

BOUNDARY DESCRIPTION

BEGINNING AT A POINT LOCATED $S0^{\circ}09'44''W$ ALONG THE SECTION LINE 238.64 FEET AND WEST 1,657.63 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M.; THENCE

COURSE	DISTANCE	REMARKS
SOUTH	33.89	
ALONG AN ARC	L-136.26	R-283.00 Δ -27° 35'11" CH-S13° 47'36"E 134.95
$S70^{\circ}57'58''W$	132.71	
NORTH	56.61	
$N77^{\circ}03'08''W$	84.29	
$N50^{\circ}23'48''E$	45.91	
$N25^{\circ}11'10''E$	45.34	
NORTH	62.43	
EAST	120.76	
		TO THE POINT OF BEGINNING
		CONTAINS 0.58 ACRES

BASIS OF BEARING: ALONG SECTION LINE AS SHOWN

LEGAL DESCRIPTION FOR PHASE 17, WESTBURY

The land described in the foregoing document is located in Utah County, Utah and is described more particularly as follows:

BOUNDARY DESCRIPTION

BEGINNING AT A POINT LOCATED S0°09'44"W ALONG THE SECTION LINE 238.64 FEET AND WEST 1,778.39 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M.; THENCE

COURSE	DISTANCE	REMARKS
SOUTH	62.43	
S25° 11'10"W	45.34	
S50° 23'48"W	45.91	
N49° 06'20"W	153.00	
N13° 38'36"E	26.30	
NORTH	7.00	
EAST	164.12	TO THE POINT OF BEGINNING
		CONTAINS: 15,213: S.F. / 0.35: ACRES

BASIS OF BEARING: ALONG SECTION LINE AS SHOWN

EXHIBIT "A-21"

LEGAL DESCRIPTION FOR PHASE 21, WESTBURY

The land described in the foregoing document is located in Utah County, Utah and is described more particularly as follows:

BOUNDARY DESCRIPTION

BEGINNING AT A POINT LOCATED S0°09'44"W ALONG THE SECTION LINE 455.49 FEET AND WEST 2,046.63 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M.; THENCE

COURSE	DISTANCE	REMARKS
S40°53'40"W	57.03	
S49°06'20"E	33.85	
S37°56'12"W	96.52	
ALONG AN ARC	L-97.40	R=5,630.00 Δ=0°59'28" CH=N49°54'33"W 97.40 (RADIUS: N39°35'43"E)
N41°16'55"E	68.53	
N3°12'22"E	48.00	
S78°00'20"E	99.88	TO THE POINT OF BEGINNING
		CONTAINS: 12,375± / 0.28± ACRES
BASIS OF BEARING: ALONG SECTION LINE AS SHOWN		

REVISED EXHIBIT "C"
PERCENTAGES OF UNDIVIDED OWNERSHIP INTEREST

Phase	Bldg. No.	Unit No.	Percentage of Ownership Interest
1	1	A	0.3968%
1	1	B	0.3968%
1	1	C	0.3968%
1	1	D	0.3968%
1	1	E	0.3968%
1	1	F	0.3968%
1	1	G	0.3968%
1	1	H	0.3968%
1	1	I	0.3968%
1	1	J	0.3968%
1	1	K	0.3968%
1	1	L	0.3968%
2	2	A	0.3968%
2	2	B	0.3968%
2	2	C	0.3968%
2	2	D	0.3968%
2	2	E	0.3968%
2	2	F	0.3968%
2	2	G	0.3968%
2	2	H	0.3968%
2	2	I	0.3968%
2	2	J	0.3968%
2	2	K	0.3968%
2	2	L	0.3968%
3	3	A	0.3968%
3	3	B	0.3968%
3	3	C	0.3968%
3	3	D	0.3968%
3	3	E	0.3968%
3	3	F	0.3968%
3	3	G	0.3968%
3	3	H	0.3968%
3	3	I	0.3968%
3	3	J	0.3968%
3	3	K	0.3968%
3	3	L	0.3968%

Phase	Bldg. No.	Unit No.	Percentage of Ownership Interest
4	4	A	0.3968%
4	4	B	0.3968%
4	4	C	0.3968%
4	4	D	0.3968%
4	4	E	0.3968%
4	4	F	0.3968%
4	4	G	0.3968%
4	4	H	0.3968%
4	4	I	0.3968%
4	4	J	0.3968%
4	4	K	0.3968%
4	4	L	0.3968%
5	5	A	0.3968%
5	5	B	0.3968%
5	5	C	0.3968%
5	5	D	0.3968%
5	5	E	0.3968%
5	5	F	0.3968%
5	5	G	0.3968%
5	5	H	0.3968%
5	5	I	0.3968%
5	5	J	0.3968%
5	5	K	0.3968%
5	5	L	0.3968%
6	6	A	0.3968%
6	6	B	0.3968%
6	6	C	0.3968%
6	6	D	0.3968%
6	6	E	0.3968%
6	6	F	0.3968%
6	6	G	0.3968%
6	6	H	0.3968%
6	6	I	0.3968%
6	6	J	0.3968%
6	6	K	0.3968%
6	6	L	0.3968%

Phase	Bldg. No.	Unit No.	Percentage of Ownership Interest
7	7	A	0.3968%
7	7	B	0.3968%
7	7	C	0.3968%
7	7	D	0.3968%
7	7	E	0.3968%
7	7	F	0.3968%
7	7	G	0.3968%
7	7	H	0.3968%
7	7	I	0.3968%
7	7	J	0.3968%
7	7	K	0.3968%
7	7	L	0.3968%
8	8	A	0.3968%
8	8	B	0.3968%
8	8	C	0.3968%
8	8	D	0.3968%
8	8	E	0.3968%
8	8	F	0.3968%
8	8	G	0.3968%
8	8	H	0.3968%
8	8	I	0.3968%
8	8	J	0.3968%
8	8	K	0.3968%
8	8	L	0.3968%
9	9	A	0.3968%
9	9	B	0.3968%
9	9	C	0.3968%
9	9	D	0.3968%
9	9	E	0.3968%
9	9	F	0.3968%
9	9	G	0.3968%
9	9	H	0.3968%
9	9	I	0.3968%
9	9	J	0.3968%
9	9	K	0.3968%
9	9	L	0.3968%

Phase	Bldg. No.	Unit No.	Percentage of Ownership Interest
10	10	A	0.3968%
10	10	B	0.3968%
10	10	C	0.3968%
10	10	D	0.3968%
10	10	E	0.3968%
10	10	F	0.3968%
10	10	G	0.3968%
10	10	H	0.3968%
10	10	I	0.3968%
10	10	J	0.3968%
10	10	K	0.3968%
10	10	L	0.3968%
11	11	A	0.3968%
11	11	B	0.3968%
11	11	C	0.3968%
11	11	D	0.3968%
11	11	E	0.3968%
11	11	F	0.3968%
11	11	G	0.3968%
11	11	H	0.3968%
11	11	I	0.3968%
11	11	J	0.3968%
11	11	K	0.3968%
11	11	L	0.3968%
12	12	A	0.3968%
12	12	B	0.3968%
12	12	C	0.3968%
12	12	D	0.3968%
12	12	E	0.3968%
12	12	F	0.3968%
12	12	G	0.3968%
12	12	H	0.3968%
12	12	I	0.3968%
12	12	J	0.3968%
12	12	K	0.3968%
12	12	L	0.3968%

Phase	Bldg. No.	Unit No.	Percentage of Ownership Interest
13	13	A	0.3968%
13	13	B	0.3968%
13	13	C	0.3968%
13	13	D	0.3968%
13	13	E	0.3968%
13	13	F	0.3968%
13	13	G	0.3968%
13	13	H	0.3968%
13	13	I	0.3968%
13	13	J	0.3968%
13	13	K	0.3968%
13	13	L	0.3968%
14	14	A	0.3968%
14	14	B	0.3968%
14	14	C	0.3968%
14	14	D	0.3968%
14	14	E	0.3968%
14	14	F	0.3968%
14	14	G	0.3968%
14	14	H	0.3968%
14	14	I	0.3968%
14	14	J	0.3968%
14	14	K	0.3968%
14	14	L	0.3968%
15	15	A	0.3968%
15	15	B	0.3968%
15	15	C	0.3968%
15	15	D	0.3968%
15	15	E	0.3968%
15	15	F	0.3968%
15	15	G	0.3968%
15	15	H	0.3968%
15	15	I	0.3968%
15	15	J	0.3968%
15	15	K	0.3968%
15	15	L	0.3968%

Phase	Bldg. No.	Unit No.	Percentage of Ownership Interest
16	16	A	0.3968%
16	16	B	0.3968%
16	16	C	0.3968%
16	16	D	0.3968%
16	16	E	0.3968%
16	16	F	0.3968%
16	16	G	0.3968%
16	16	H	0.3968%
16	16	I	0.3968%
16	16	J	0.3968%
16	16	K	0.3968%
16	16	L	0.3968%
17	17	A	0.3968%
17	17	B	0.3968%
17	17	C	0.3968%
17	17	D	0.3968%
17	17	E	0.3968%
17	17	F	0.3968%
17	17	G	0.3968%
17	17	H	0.3968%
17	17	I	0.3968%
17	17	J	0.3968%
17	17	K	0.3968%
17	17	L	0.3968%
18	18	A	0.3968%
18	18	B	0.3968%
18	18	C	0.3968%
18	18	D	0.3968%
18	18	E	0.3968%
18	18	F	0.3968%
18	18	G	0.3968%
18	18	H	0.3968%
18	18	I	0.3968%
18	18	J	0.3968%
18	18	K	0.3968%
18	18	L	0.3968%

Phase	Bldg. No.	Unit No.	Percentage of Ownership Interest
19	19	A	0.3968%
19	19	B	0.3968%
19	19	C	0.3968%
19	19	D	0.3968%
19	19	E	0.3968%
19	19	F	0.3968%
19	19	G	0.3968%
19	19	H	0.3968%
19	19	I	0.3968%
19	19	J	0.3968%
19	19	K	0.3968%
19	19	L	0.3968%
20	20	A	0.3968%
20	20	B	0.3968%
20	20	C	0.3968%
20	20	D	0.3968%
20	20	E	0.3968%
20	20	F	0.3968%
20	20	G	0.3968%
20	20	H	0.3968%
20	20	I	0.3968%
20	20	J	0.3968%
20	20	K	0.3968%
20	20	L	0.3968%
21	21	A	0.3968%
21	21	B	0.3968%
21	21	C	0.3968%
21	21	D	0.3968%
21	21	E	0.3968%
21	21	F	0.3968%
21	21	G	0.3968%
21	21	H	0.3968%
21	21	I	0.3968%
21	21	J	0.3968%
21	21	K	0.3968%
21	21	L	0.3968%