

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

ENT 44347:2004 PG 1 of 12:11  
RANDALL A. COVINGTON  
UTAH COUNTY RECORDER  
2004 Apr 19 3:03 pm FEE 200.00 BY SH  
RECORDED FOR TMM DEVELOPERS LC

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

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

**RECITALS**

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 9<sup>th</sup> day of October, 2002 as Entry No. 119306:2002 at Page(s) 1 through 69 of the Official Records (the "Declaration").

The related Plat Map(s) for Phase 1 of the Project has also been recorded in the office of the County Recorder of Utah County, Utah.

The First Supplement to the Declaration of Condominium for Westbury at Pheasant Point Condominium was recorded in the Office of the County Recorder of Utah County, Utah on the 9<sup>th</sup> day of October, 2002 as Entry No. 119314:2002 at Pages 1 through 10 of the Official Records (the "First Supplement").

The related Plat Map(s) for the Phases 2-8 have also been recorded in the Office of the County Recorder of Utah County, Utah.

The Second Supplement to the Declaration of Condominium for Westbury at Pheasant Point Condominium was recorded in the Office of the County Recorder of Utah County, Utah on the 6<sup>th</sup> day of November, 2003 as Entry No. 177457:2003 at Pages 1-11 of the Official Records (the "Second Supplement").

The related Plat Map(s) for the Phases 9-14 have also been recorded in the Office of the County Recorder of Utah County, Utah.

Affidavits for Withdrawal of the Phases 9-14 properties have 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 five (5) years from the recordation of the Declaration 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 Exhibits "A 9-14" attached hereto and incorporated herein by this reference (collectively, "Phases 9-14 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 again creating on the Phases 9-14 Property a residential condominium development.

Whereas, Declarant now intends that the "Phases 9-14 Property" shall again become subject to the Declaration.

**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 AMENDED SECOND 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. **Second Supplement to the Declaration** shall mean and refer to this AMENDED SECOND SUPPLEMENT TO THE DECLARATION OF CONDOMINIUM FOR WESTBURY AT PHEASANT POINTE.

B. **Second Supplemental Map(s) or Phases 9-14 Property Map(s)** shall mean and refer to the Amended Supplemental Condominium Plat Map(s) for the additional phases of the Project described on Exhibits "A 9-14," 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 Exhibits "A 9-14" 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 "Phases 9-14 Property" shall be re-annexed to and again become subject to the Declaration, which upon recordation of this Second Supplement to the Declaration shall constitute and effectuate the re-expansion of the Project, making the real property described in Exhibits "A 9-14" 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), each Phase will add one Building and twelve (12) Units. In all, six (6) additional Buildings and seventy-two (72) additional Units are or will be constructed and/or created in the Project on the Phases 9-14 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 Second Supplement to the Declaration, the total number of Units in the Project will be one hundred sixty-eight (168). 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. Revised Exhibit "C" (Percentages of Undivided Ownership Interests) to the Declaration is hereby deleted in its entirety and "Second Revised Exhibit "C," attached hereto and incorporated herein by this reference, is substituted in lieu thereof.

6. **Effective Date.** The effective date of this Second Supplement to the Declaration and the Phases 9-14 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 19 day of April, 2004.

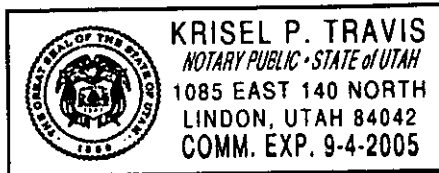
TMM DEVELOPERS, L.C.,  
a Utah limited liability company

By: 

Name: Don Mullen

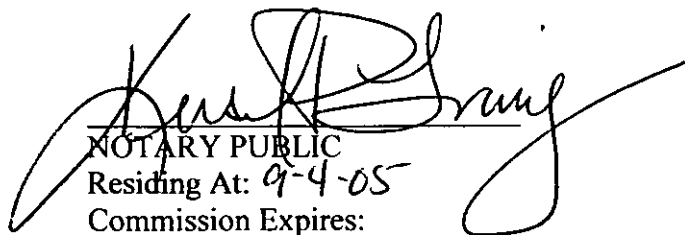
Title: Manager

STATE OF UTAH )  
 )ss:  
COUNTY OF UTAH )



!!! ENT 44347:2004 PG 4 of 12

On the 19 day of April, 2004 personally appeared before me DON MULLEN, who by me being duly sworn, did say that he is the Manager of TMM DEVELOPERS, 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 DON MULLEN duly acknowledged to me that said Company executed the same.

  
NOTARY PUBLIC  
Residing At: 9-4-05  
Commission Expires:

**EXHIBIT "A-9"**

**WESTBURY AT PHEASANT POINTE  
LEGAL DESCRIPTION**

The land described in the foregoing document as the Phase 9 Property is located in Utah County, Utah and is described more particularly as follows:

BEGINNING AT A POINT LOCATED S0°09'44"W ALONG THE SECTION LINE 888.30 FEET AND WEST 1,463.29 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M.; THENCE:

| COURSE  | DISTANCE | REMARKS                                    |
|---|----------|--|
| S34°06'00"W                                   | 148.35   |  |
| ALONG AN ARC                                  | L=482.29 | R=5630.00 Δ=4°54'29" CH=N55°07'36"W 482.14 |
| N34°32'27"E                                   | 101.15   |  |
| N33°09'32"E                                   | 78.32    |  |
| N25°25'48"E                                   | 33.41    |  |
| N35°51'24"E                                   | 107.84   |  |
| S55°04'45"E                                   | 184.90   |  |
| N34°44'00"E                                   | 103.24   |  |
| ALONG AN ARC                                  | L=28.75  | R=283.00 Δ=5°19'01" CH=S53°07'29"E 28.72   |
| S56°02'00"E                                   | 52.75    |  |
| S34°44'00"W                                   | 104.41   |  |
| S55°16'00"E                                   | 129.56   |  |
| S34°44'00"W                                   | 171.92   |  |
| S55°54'00"E                                   | 90.38    | TO THE POINT OF BEGINNING                  |
|   |          | CONTAINING: 2.54 ACRES                     |
| BASIS OF BEARING: ALONG SECTION LINE AS SHOWN |          |  |

**EXHIBIT "A-10"**

**WESTBURY AT PHEASANT POINTE  
LEGAL DESCRIPTION**

The land described in the foregoing document as the Phase 10 Property is located in Utah County, Utah and is described more particularly as follows:

BEGINNING AT A POINT LOCATED S0°09'44"W ALONG THE SECTION LINE 636.52 FEET AND WEST 1,366.67 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M.; THENCE:

| COURSE  | DISTANCE | REMARKS                                  |
|---|----------|--|
| S34°10'03"W                                   | 3.45     |  |
| N55°16'00"W                                   | 13.00    |  |
| S34°10'03"W                                   | 88.00    |  |
| N55°16'00"W                                   | 144.38   |  |
| N34°44'00"E                                   | 104.41   |  |
| S56°02'00"E                                   | 141.29   |  |
| ALONG AN ARC                                  | L=23.62  | R=15.00 Δ=90°12'03" CH=S10°55'58"E 21.25 |
|   |          | TO THE POINT OF BEGINNING                |
|   |          | CONTAINS: 0.36 ACRES                     |
| BASIS OF BEARING: ALONG SECTION LINE AS SHOWN |          |  |

**EXHIBIT "A-11"**

**WESTBURY AT PHEASANT POINTE  
LEGAL DESCRIPTION**

The land described in the foregoing document as the Phase 11 Property is located in Utah County, Utah and is described more particularly as follows:

BEGINNING AT A POINT LOCATED S0°09'44"W ALONG THE SECTION LINE 780.49 FEET AND WEST 1,594.96 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M.; THENCE

| COURSE      | DISTANCE | REMARKS                   |
|-------------|----------|---------------------------|
| S34°44'00"W | 81.80    |                           |
| N54°36'30"W | 146.46   |                           |
| N33°44'51"E | 78.52    |                           |
| S55°53'26"E | 147.81   | TO THE POINT OF BEGINNING |
|             |          | CONTAINS: 0.24 ACRES      |
|             |          |                           |
|             |          |                           |
|             |          |                           |
|             |          |                           |

**EXHIBIT "A-12"**

**WESTBURY AT PHEASANT POINTE  
LEGAL DESCRIPTION**

The land described in the foregoing document as the Phase 12 Property is located in Utah County, Utah and is described more particularly as follows:

BEGINNING AT A POINT LOCATED S0°09'44"W ALONG THE SECTION LINE 715.01 FEET AND WEST 1,549.75 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M.; THENCE

| COURSE      | DISTANCE | REMARKS                   |
|-------------|----------|---------------------------|
| S34°44'00"W | 79.67    |                           |
| N55°53'26"W | 147.81   |                           |
| N33°44'51"E | 81.30    |                           |
| S55°16'00"E | 149.20   | TO THE POINT OF BEGINNING |
|             |          | CONTAINS: 0.27 ACRES      |
|             |          |                           |
|             |          |                           |
|             |          |                           |
|             |          |                           |

**EXHIBIT "A-13"**

**WESTBURY AT PHEASANT POINTE  
LEGAL DESCRIPTION**

The land described in the foregoing document as the Phase 13 Property is located in Utah County, Utah and is described more particularly as follows:

BEGINNING AT A POINT LOCATED S0°09'44"W ALONG THE SECTION LINE 630.00 FEET AND WEST 1,672.60 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M.; THENCE

| COURSE      | DISTANCE | REMARKS                   |
|-------------|----------|---------------------------|
| S83°45'51"W | 159.82   |                           |
| N54°36'30"W | 91.25    |                           |
| N34°32'27"E | 158.74   |                           |
| S55°16'00"E | 89.03    | TO THE POINT OF BEGINNING |
|             |          | CONTAINS: 0.33 ACRES      |
|             |          |                           |
|             |          |                           |
|             |          |                           |

**EXHIBIT "A-14"**

**WESTBURY AT PHEASANT POINTE  
LEGAL DESCRIPTION**

The land described in the foregoing document as the Phase 14 Property is located in Utah County, Utah and is described more particularly as follows:

BEGINNING AT A POINT LOCATED S0°09'44"W ALONG THE SECTION LINE 490.00 FEET AND WEST 1,555.01 FEET FROM THE EAST 1/4 CORNER OF SECTION 31, T4S, R1E, S.L.B.&M.; THENCE

| COURSE       | DISTANCE | REMARKS                                    |
|--------------|----------|--|
| S34°44'00"W  | 103.24   |  |
| N55°04'45"W  | 184.90   |  |
| N34°32'27"E  | 26.88    |  |
| N70°57'58"E  | 132.71   |  |
| ALONG AN ARC | L-111.78 | R-283.00 Δ-22°37'47" CH-S38°54'05"E 111.05 |
|              |          | TO THE POINT OF BEGINNING                  |
|              |          | CONTAINS: 0.43 ACRES                       |
|              |          |  |

**SECOND REVISED EXHIBIT "C"  
PERCENTAGES OF UNDIVIDED OWNERSHIP INTEREST**

| <b>Phase</b> | <b>Bldg. No.</b> | <b>Unit No.</b> | <b>Percentage of Ownership Interest</b> |
|--------------|------------------|-----------------|---|
| 1            | 1                | 1-A             | 0.595238%                               |
| 1            | 1                | 1-B             | 0.595238%                               |
| 1            | 1                | 1-C             | 0.595238%                               |
| 1            | 1                | 1-D             | 0.595238%                               |
| 1            | 1                | 1-E             | 0.595238%                               |
| 1            | 1                | 1-F             | 0.595238%                               |
| 1            | 1                | 1-G             | 0.595238%                               |
| 1            | 1                | 1-H             | 0.595238%                               |
| 1            | 1                | 1-I             | 0.595238%                               |
| 1            | 1                | 1-J             | 0.595238%                               |
| 1            | 1                | 1-K             | 0.595238%                               |
| 1            | 1                | 1-L             | 0.595238%                               |
|              |                  |                 |   |
| 2            | 2                | 2-A             | 0.595238%                               |
| 2            | 2                | 2-B             | 0.595238%                               |
| 2            | 2                | 2-C             | 0.595238%                               |
| 2            | 2                | 2-D             | 0.595238%                               |
| 2            | 2                | 2-E             | 0.595238%                               |
| 2            | 2                | 2-F             | 0.595238%                               |
| 2            | 2                | 2-G             | 0.595238%                               |
| 2            | 2                | 2-H             | 0.595238%                               |
| 2            | 2                | 2-I             | 0.595238%                               |
| 2            | 2                | 2-J             | 0.595238%                               |
| 2            | 2                | 2-K             | 0.595238%                               |
| 2            | 2                | 2-L             | 0.595238%                               |
|              |                  |                 |   |
| 3            | 3                | 3-A             | 0.595238%                               |
| 3            | 3                | 3-B             | 0.595238%                               |
| 3            | 3                | 3-C             | 0.595238%                               |
| 3            | 3                | 3-D             | 0.595238%                               |
| 3            | 3                | 3-E             | 0.595238%                               |
| 3            | 3                | 3-F             | 0.595238%                               |
| 3            | 3                | 3-G             | 0.595238%                               |
| 3            | 3                | 3-H             | 0.595238%                               |
| 3            | 3                | 3-I             | 0.595238%                               |
| 3            | 3                | 3-J             | 0.595238%                               |
| 3            | 3                | 3-K             | 0.595238%                               |
| 3            | 3                | 3-L             | 0.595238%                               |



| <b>Phase</b> | <b>Bldg. No.</b> | <b>Unit No.</b> | <b>Percentage of Ownership Interest</b> |
|--------------|------------------|-----------------|---|
| 4            | 4                | 4-A             | 0.595238%                               |
| 4            | 4                | 4-B             | 0.595238%                               |
| 4            | 4                | 4-C             | 0.595238%                               |
| 4            | 4                | 4-D             | 0.595238%                               |
| 4            | 4                | 4-E             | 0.595238%                               |
| 4            | 4                | 4-F             | 0.595238%                               |
| 4            | 4                | 4-G             | 0.595238%                               |
| 4            | 4                | 4-H             | 0.595238%                               |
| 4            | 4                | 4-I             | 0.595238%                               |
| 4            | 4                | 4-J             | 0.595238%                               |
| 4            | 4                | 4-K             | 0.595238%                               |
| 4            | 4                | 4-L             | 0.595238%                               |
| 5            | 5                | 5-A             | 0.595238%                               |
| 5            | 5                | 5-B             | 0.595238%                               |
| 5            | 5                | 5-C             | 0.595238%                               |
| 5            | 5                | 5-D             | 0.595238%                               |
| 5            | 5                | 5-E             | 0.595238%                               |
| 5            | 5                | 5-F             | 0.595238%                               |
| 5            | 5                | 5-G             | 0.595238%                               |
| 5            | 5                | 5-H             | 0.595238%                               |
| 5            | 5                | 5-I             | 0.595238%                               |
| 5            | 5                | 5-J             | 0.595238%                               |
| 5            | 5                | 5-K             | 0.595238%                               |
| 5            | 5                | 5-L             | 0.595238%                               |
| 6            | 6                | 6-A             | 0.595238%                               |
| 6            | 6                | 6-B             | 0.595238%                               |
| 6            | 6                | 6-C             | 0.595238%                               |
| 6            | 6                | 6-D             | 0.595238%                               |
| 6            | 6                | 6-E             | 0.595238%                               |
| 6            | 6                | 6-F             | 0.595238%                               |
| 6            | 6                | 6-G             | 0.595238%                               |
| 6            | 6                | 6-H             | 0.595238%                               |
| 6            | 6                | 6-I             | 0.595238%                               |
| 6            | 6                | 6-J             | 0.595238%                               |
| 6            | 6                | 6-K             | 0.595238%                               |
| 6            | 6                | 6-L             | 0.595238%                               |

| Phase | Bldg. No. | Unit No. | Percentage of Ownership Interest |
|-------|-----------|----------|----------------------------------|
| 7     | 7         | 7-A      | 0.595238%                        |
| 7     | 7         | 7-B      | 0.595238%                        |
| 7     | 7         | 7-C      | 0.595238%                        |
| 7     | 7         | 7-D      | 0.595238%                        |
| 7     | 7         | 7-E      | 0.595238%                        |
| 7     | 7         | 7-F      | 0.595238%                        |
| 7     | 7         | 7-G      | 0.595238%                        |
| 7     | 7         | 7-H      | 0.595238%                        |
| 7     | 7         | 7-I      | 0.595238%                        |
| 7     | 7         | 7-J      | 0.595238%                        |
| 7     | 7         | 7-K      | 0.595238%                        |
| 7     | 7         | 7-L      | 0.595238%                        |
| 8     | 8         | 8-A      | 0.595238%                        |
| 8     | 8         | 8-B      | 0.595238%                        |
| 8     | 8         | 8-C      | 0.595238%                        |
| 8     | 8         | 8-D      | 0.595238%                        |
| 8     | 8         | 8-E      | 0.595238%                        |
| 8     | 8         | 8-F      | 0.595238%                        |
| 8     | 8         | 8-G      | 0.595238%                        |
| 8     | 8         | 8-H      | 0.595238%                        |
| 8     | 8         | 8-I      | 0.595238%                        |
| 8     | 8         | 8-J      | 0.595238%                        |
| 8     | 8         | 8-K      | 0.595238%                        |
| 8     | 8         | 8-L      | 0.595238%                        |
| 9     | 9         | 1-A      | 0.595238%                        |
| 9     | 9         | 1-B      | 0.595238%                        |
| 9     | 9         | 1-C      | 0.595238%                        |
| 9     | 9         | 1-D      | 0.595238%                        |
| 9     | 9         | 1-E      | 0.595238%                        |
| 9     | 9         | 1-F      | 0.595238%                        |
| 9     | 9         | 1-G      | 0.595238%                        |
| 9     | 9         | 1-H      | 0.595238%                        |
| 9     | 9         | 1-I      | 0.595238%                        |
| 9     | 9         | 1-J      | 0.595238%                        |
| 9     | 9         | 1-K      | 0.595238%                        |
| 9     | 9         | 1-L      | 0.595238%                        |

| <b>Phase</b> | <b>Bldg. No.</b> | <b>Unit No.</b> | <b>Percentage of Ownership Interest</b> |
|--------------|------------------|-----------------|---|
| 10           | 10               | 1-A             | 0.595238%                               |
| 10           | 10               | 1-B             | 0.595238%                               |
| 10           | 10               | 1-C             | 0.595238%                               |
| 10           | 10               | 1-D             | 0.595238%                               |
| 10           | 10               | 1-E             | 0.595238%                               |
| 10           | 10               | 1-F             | 0.595238%                               |
| 10           | 10               | 1-G             | 0.595238%                               |
| 10           | 10               | 1-H             | 0.595238%                               |
| 10           | 10               | 1-I             | 0.595238%                               |
| 10           | 10               | 1-J             | 0.595238%                               |
| 10           | 10               | 1-K             | 0.595238%                               |
| 10           | 10               | 1-L             | 0.595238%                               |
| 11           | 11               | 1-A             | 0.595238%                               |
| 11           | 11               | 1-B             | 0.595238%                               |
| 11           | 11               | 1-C             | 0.595238%                               |
| 11           | 11               | 1-D             | 0.595238%                               |
| 11           | 11               | 1-E             | 0.595238%                               |
| 11           | 11               | 1-F             | 0.595238%                               |
| 11           | 11               | 1-G             | 0.595238%                               |
| 11           | 11               | 1-H             | 0.595238%                               |
| 11           | 11               | 1-I             | 0.595238%                               |
| 11           | 11               | 1-J             | 0.595238%                               |
| 11           | 11               | 1-K             | 0.595238%                               |
| 11           | 11               | 1-L             | 0.595238%                               |
| 12           | 12               | 1-A             | 0.595238%                               |
| 12           | 12               | 1-B             | 0.595238%                               |
| 12           | 12               | 1-C             | 0.595238%                               |
| 12           | 12               | 1-D             | 0.595238%                               |
| 12           | 12               | 1-E             | 0.595238%                               |
| 12           | 12               | 1-F             | 0.595238%                               |
| 12           | 12               | 1-G             | 0.595238%                               |
| 12           | 12               | 1-H             | 0.595238%                               |
| 12           | 12               | 1-I             | 0.595238%                               |
| 12           | 12               | 1-J             | 0.595238%                               |
| 12           | 12               | 1-K             | 0.595238%                               |
| 12           | 12               | 1-L             | 0.595238%                               |

| <b>Phase</b> | <b>Bldg. No.</b> | <b>Unit No.</b> | <b>Percentage of Ownership Interest</b> |
|--------------|------------------|-----------------|---|
| 13           | 13               | 1-A             | 0.595238%                               |
| 13           | 13               | 1-B             | 0.595238%                               |
| 13           | 13               | 1-C             | 0.595238%                               |
| 13           | 13               | 1-D             | 0.595238%                               |
| 13           | 13               | 1-E             | 0.595238%                               |
| 13           | 13               | 1-F             | 0.595238%                               |
| 13           | 13               | 1-G             | 0.595238%                               |
| 13           | 13               | 1-H             | 0.595238%                               |
| 13           | 13               | 1-I             | 0.595238%                               |
| 13           | 13               | 1-J             | 0.595238%                               |
| 13           | 13               | 1-K             | 0.595238%                               |
| 13           | 13               | 1-L             | 0.595238%                               |
| 14           | 14               | 1-A             | 0.595238%                               |
| 14           | 14               | 1-B             | 0.595238%                               |
| 14           | 14               | 1-C             | 0.595238%                               |
| 14           | 14               | 1-D             | 0.595238%                               |
| 14           | 14               | 1-E             | 0.595238%                               |
| 14           | 14               | 1-F             | 0.595238%                               |
| 14           | 14               | 1-G             | 0.595238%                               |
| 14           | 14               | 1-H             | 0.595238%                               |
| 14           | 14               | 1-I             | 0.595238%                               |
| 14           | 14               | 1-J             | 0.595238%                               |
| 14           | 14               | 1-K             | 0.595238%                               |
| 14           | 14               | 1-L             | 0.595238%                               |