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Request of SECURITY TITLE COMPANY

Fee Paid KATHIE L. DIXON

Recorder, Salt Lake County, Utah

Ref. ....

Patricia Brown

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DECLARATION OF CONDOMINIUM

OF

MOUNTAIN VIEW PARK  
(Phase No. 1)

THIS DECLARATION is made as of the date hereinafter set forth by H. & W. VENTURE, a Utah General Partnership (the "Declarant"), pursuant to the provisions of the Utah Condominium Ownership Act.

R E C I T A L S:

A. Declarant is the owner of that certain tract of land, more particularly described in Article II hereof.

B. There has been constructed upon said tract ten apartment buildings containing 120 apartment units and other improvements, which Declarant now desires to convert to a condominium project. All of such construction has been performed in accordance with the plans and drawings contained in the Record of Survey Map filed for record simultaneously herewith, consisting of four sheets, prepared and certified by Robert B. Jones, Utah Registered Land Surveyor.

C. Declarant desires, by filing this Declaration and the Record of Survey Map, to submit said tract and all improvements now or hereafter constructed thereon to the provisions of the Utah Condominium Ownership Act as a condominium project to be known as "MOUNTAIN VIEW PARK (Phase No. 1)."

D. Declarant intends to sell to various purchasers the fee title to the individual Units contained in the Project, together with the undivided ownership interest in the Common Areas and Facilities appurtenant to such Units, subject to the covenants, restrictions, limitations, and easements herein set forth.

E. It is anticipated by Declarant that the Project created hereby will be but the initial phase of a larger project which ultimately may come into existence. Accordingly, Declarant desires to reserve the right to include each additional Phase as a part of one Project consisting of all phases which may be completed at any given time.

NOW, THEREFORE, for the foregoing purposes, Declarant hereby declares and certifies as follows:

I. Definitions. When used in this Declaration (including that portion hereof captioned "Recitals" and in the By-Laws attached hereto as Exhibit "B") the terms used shall have the meaning stated in the Utah Condominium Ownership Act and as follows unless the context otherwise requires.

1. Act shall mean and refer to the Utah Condominium Ownership Act (Title 47, Chapter 8, Utah Code Annotated) as the same may be amended from time to time.

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2. Declaration shall mean and refer to this Declaration.

3. Declarant shall mean and refer to H. & W. Venture, a Utah Limited Partnership, and to its successors and assigns.

4. Map shall mean and refer to the Record of Survey Map filed herewith captioned "Mountain View Park" (phase No. 1).

5. Property shall mean and refer to the land, the buildings, all improvements and the structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

6. Common Areas or the Common Areas and Facilities shall mean and refer to and include:

(a) The land on which the buildings and other improvements are constructed and submitted by this Declaration to the terms of the Act.

(b) Those Common Areas and Facilities specifically set forth and designated as such in the Map.

(c) All portions of the Project not specifically included within the individual Units.

(d) All limited Common Areas and Facilities.

(e) All foundations, columns, girders, beams, supports, perimeter walls, roofs, and lobbies constituting a portion of or included in the improvements which comprise a part of the Project, and any halls, corridors, stairs, stairways, entrances, and exits which are designed for the use of more than one Unit.

(f) All installations for and all equipment connected with the furnishing of Project central services such as gas, water, heat, and air conditioning.

(g) All tanks, pumps, motors, fans, compressors, ducts, and in general all apparatus, installations, and facilities included within the Project and existing for common use.

(h) All recreational areas and facilities including pool, recreational building and others shown in the Map.

(i) All other parts of the project normally in common use or necessary or convenient to its use, existence, maintenance, safety, or management.

(j) All Common Areas and Facilities as defined in the Act, whether or not expressly listed herein.

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7. Condominium Unit or Unit means and refers to one of the home Units intended for independent use as defined in the Act and as shown (single cross - hatched) in the Map. Mechanical equipment and appurtenances located within any one Unit or located without said Unit but designated and designed to serve only that Unit, such as appliances, electrical receptacles and outlets, air conditioning compressors and other air conditioning apparatus, fixtures and the like, shall be considered part of the Unit, as shall all decorated interiors, all surfaces of interior structural walls, floors and ceilings, windows and window frames, doors and door frames, and trim, consisting of, *inter alia* and as appropriate, wallpaper, paint, flooring, carpeting and tile. All pipes, wires, conduits, or other public utility lines or installations constituting a part of the Unit and serving only the Unit, and any structural members or any other property of any kind, including fixtures and appliances within any Unit, which are removable without jeopardizing the soundness, safety or usefulness of the remainder of the building within which the Unit is situated shall be considered part of the Unit.

8. Management Committee and the Committee shall mean and refer to the Management Committee of the Mountain View Park (phase No. 1).

9. Common Expenses shall mean all items, things and sums described in the Act which are lawfully assessed against the Unit Owners in accordance with the provisions of the Act, this Declaration, the By-Laws, such rules, regulations and other determinations and agreements pertaining to the Condominium Project as the Management Committee may from time to time adopt.

10. Mortgage shall mean any mortgage, deed of trust or other security instrument by which a Unit or any part thereof is encumbered.

11. Mortgagee shall mean any person named as a Mortgagee or beneficiary under or holder of a deed of trust.

12. Limited Common Areas and Facilities or Limited Common Areas shall mean those Common Areas designated in the Declaration (and shown in the Map by double cross-hatching) as reserved for use of certain Unit or Units to the exclusion of other Units. Limited Common Areas include the porches and carports (one per each Unit) associated with the Units as shown in the Map.

13. Unit Number shall mean and refer to the number, letter, or combination thereof which designates a Unit in the attached Exhibit "A" and in the Map.

14. Unit Owner or Owner shall mean and refer to the Owner of the fee in a Unit and the ownership of undivided interest in the Common Areas which is appurtenant thereto. The Declarant shall be deemed to be the Owner of all completed but unsold Units. In the event a Unit is the subject of an executory contract of sale, the contract buyer shall, unless the seller and the buyer have

otherwise agreed and have informed the Committee in writing of such agreement, be considered the Unit Owner for all purposes.

15. Entire Tract shall mean and refer to the following described tract of land situate in Salt Lake County, State of Utah, together with all appurtenances thereto:

BEGINNING on the Southerly line of Atherton Drive and the Easterly line of 1175 West Street, said point being due North 153.14 feet and due East 1180.99 feet from the West quarter corner of Section 2, Township 2 South, Range 1 West, Salt Lake Base and Meridian, thence following said Southerly line of Atherton Drive, Southeasterly along a 187.668 foot radius curve to the right, 106.02 feet and South 50°00' East 208.24 feet and Southeasterly along a 747.00 foot radius curve to the right, 534.54 feet and South 9° 00' East 166.00 feet and Southeasterly along a 1244.04 foot radius curve to the left, 306.61 feet and South 23°07'17" East 25.64 feet to the Northerly right of way line of the 4700 South Expressway; thence following said Northerly right of way line, South 65°40'36" West 392.62 feet and South 68°14' West 299.51 feet to the East line of 1175 West Street; thence North 0°06' East along said East line 563.31 feet to the South line of the Salt Lake County Water Conservancy District's property; thence South 89°54' East 105.00 feet; thence North 0°06' East 110.00 feet; thence North 89°54' West 105.00 feet; thence North 0°06' East 712.38 feet to the point of BEGINNING.

The land which this Declaration submits to the terms of the Act comprises only a part of the Entire Tract. A description of the Entire Tract is set forth in this Declaration solely for purposes of identification. This Declaration is not intended and should not be deemed to constitute any lien, encumbrance, restriction, or limitation upon any real property or interests in real property other than the land which this Declaration expressly submits to the provisions of the Act.

16. Tract shall mean and refer to each portion of the Entire Tract which is separately submitted to the terms of the Act with the intention that it shall thereby comprise, or in the future may become, a part of the Project. The real property which Article II of this Declaration submits to the terms of the Act constitutes a Tract.

17. Additional Land shall mean and refer to any land or an interest therein which may come from time to time to be added to

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the Project as an expansion thereof under the terms and conditions of this Declaration. Such additional land may include all or part of the following described tracts of land and situate in Salt Lake County, State of Utah, together with all appurtenances thereto, to-wit:

Beginning on the Southerly line of Atherton Drive and the Easterly line of 1175 West Street, said point being North 153.14 feet and East 1180.99 feet from the West quarter corner of Section 2, Township 2 South, Range 1 West, Salt Lake Base and Meridian; thence following said Southerly line of Atherton Drive, Southeasterly along the arc of a 187.668 foot radius curve to the right, a distance of 106.02 feet to a point of tangency; thence South 50°00' East 208.24 feet to a point of a 747.0 foot radius curve to the right; thence Southeasterly along the arc of said curve 534.54 feet to a point of tangency; thence South 9°00' East 67.63 feet; thence leaving said Atherton Drive South 87°30' West 110.77 feet; thence South 0°06' West 10.0 feet; thence North 89°54' West 122.5 feet; thence North 0°06' East 80.0 feet; thence North 89°59' West 291.50 feet to the Easterly line of said 1175 West Street; thence North 0°06' East along said Easterly line 632.38 feet to the point of beginning. Contains 5.406 acres.

The description of the Additional Land above set forth is solely for purposes of identification and is not intended and shall not be deemed to constitute any lien, encumbrance, restriction, or limitation upon any real property or interest in real property other than the land which this Declaration expressly submits to the provisions of the Act, which land is expressly described in Article II hereof.

18. Phase shall mean and refer to each separate step in development of the Entire Tract which is initiated through the submission of a tract to the terms of the Act. The term shall also include all improvements which are constructed and all appurtenances, rights, obligations, and legal relationships which come into existence in conjunction with the submission of any single tract. The submission which is effected by this Declaration, the rights and obligations which are created by this Declaration, and the improvements described in the Map which have been or will be constructed, together constitute a Phase, to-wit: Phase No. 1, of Mountain View Park Condominium Project.

19. Condominium Project or Project shall mean and refer to the Mountain View Park Condominium Project. At any point in time the Project shall consist of Phase No. 1 and all Phases, if any, which hereafter have been added to and merged with Phase No. 1.

II. Submission to the Act. Declarant hereby submits to the provisions of the Act as the Tract associated with Phase No. 1 of the Project, the following described real property situated in the County of Salt Lake, State of Utah, to-wit:

Beginning at a point on the East line of 1175 West Street, said point being East 1180.55 feet and S. 0°06' West 669.24 feet from the West 1/4 corner of Section 2, Township 2 South, Range 1 West, Salt Lake Base and Meridian, and running thence S89°54' East 105.0 feet; thence N. 0°06' East 110.0 feet; thence N. 89°54' W 105.0 feet to the East line of 1175 West Street thence N. 0°06' East along said East line 80.00 feet; thence S. 89°54' East 291.50 feet; thence S. 0°06' West 80.00 feet; thence S. 89°54' East 122.50 feet; thence North 0°06' East 10.0 feet; thence North 87°30' East 110.77 feet to the West line of Atherton Drive; thence S. 9°00' East along said West line 98.37 feet to a point of a 1244.04 foot radius curve to the left; thence Southeasterly along the arc of said curve and West line 306.61 feet to a point of tangency; thence South 23°07'17" East along said West line 25.64 feet to the North line of 4700 South Expressway; thence South 65°40'36" West along said north line 392.62 feet; thence South 68°14' West along said North line 299.51 feet to the east line of said 1175 West Street; thence North 0°06' East along said east line 563.31 feet to the point of beginning. Contains 7.058 Acres.

RESERVED FROM THE FOREGOING SUBMISSION are such easements and rights of ingress and egress over, across, through, and under the above-described Tract and any improvements now or hereafter constructed thereon as may be necessary to develop each and every part of the Entire Tract as a Phase or Phases. If, pursuant to this reservation, the above-described real property or any improvement thereon is traversed or partially occupied by a permanent improvement or utility line, a perpetual easement for such improvement or utility line shall exist. With the exception of such perpetual easements, the reservation hereby effected shall terminate upon the first to occur of the following events: (a) When each and every part of the Entire Tract is part of a fully completed Phase; or (b) When the right to add additional Phases to the Project terminates.

The above described tract is subject to covenants, conditions, restrictions and easements whether of record or visible.

III. Covenants, Conditions and Restrictions. The foregoing submission is made upon and under the following covenants, conditions and restrictions:

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1. Description of Improvements. The improvements included in Phase No. 1 of the Project are now located upon the Tract described above, and all of such improvements are described in the Map. The Map shows the number of stories, the number of Units which are contained in the ten apartment buildings which comprise a part of such improvements, the recreational areas and facilities, and other significant facts relating to such improvements. Every Unit has one covered parking space for one automobile (identified by double cross-hatching in the Map as a Limited Common Area with the same number preceded by capital P) shall be used in connection with such Unit to the exclusion thereof by other Owners of Common Areas except by invitation. All buildings are of wood-frame construction with partial brick veneer exterior on the first level and wood siding on the second level.

2. Description and Legal Status of Units. The Map shows, with respect to Phase No. 1 of the Project, Unit Number of each Unit, its location, dimensions from which its area may be determined, those Limited Common Areas which are reserved for its use, and the Common Areas to which it has access.

3. Contents of Exhibit "A". Exhibit "A" attached to this Declaration furnishes the following information with respect to each Unit in Phase No. 1: (a) Unit Number; (b) its square footage; (c) its par value based on points; and (d) its appurtenant undivided ownership interest in the Common Areas.

4. Common and Limited Common Areas. The Common Areas contained in the Project are described and identified in Article I hereof and in the Map. Neither the ownership of undivided interest in the Common Areas nor the right of exclusive use of a Limited Common Area shall be separated from the Unit to which it appertains; and even though not specifically mentioned in the instrument of conveyance, such ownership of undivided interest and such right of exclusive use shall automatically accompany the conveyance of the Unit to which they relate.

5. Determination of Interest in Common Areas. The proportionate share of the Unit Owners in the Common Areas of the Project is based on the par value that each of the Units bear to the total par value of all the Units. The proportionate ownership in the Common Areas shall be for all purposes including, but not limited to, voting and assessment for Common Expenses. The maximum interest of each of the Unit Owners in the Common Areas shall be as set forth in Exhibit "A". Such maximum interest shall be subject as to each Owner to diminution in the event the Project is expanded to the maximum number of Units set forth in Paragraph 24 below as follows: 1260 square feet Unit .54%; 1115 square feet Unit .48%; 1108 square feet Unit .48%; 1014 square feet Unit .42%; and 737 square feet Unit .35%.

6. Holding Title. Title to a Unit may be held or owned by any entity and in any manner in which title to any other real property may be held or owned in the State of Utah, including, but without limitation, joint tenancy or tenancy in common.

7. No Separation. No part of a Unit or of the legal rights comprising ownership of a Unit may be separated from any other part thereof during the period of Condominium Ownership described herein, so that each Unit, the undivided interest in the

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Common Areas appurtenant to such Unit, and the exclusive right to use and occupy the Limited Common Areas appurtenant to such Unit, shall always be conveyed, devised, encumbered, and otherwise affect only together and may never be separated from one another. Every gift, devise, bequest, transfer, encumbrance, or other disposition of a Unit or any part thereof shall constitute a gift, devise, bequest, transfer, encumbrance or conveyance, respectively, of the entire Unit, together with all appurtenant rights created by law or by this Declaration.

8. No Partition. The Common Areas shall be owned in common by all the Owners of Units, and no Unit Owner may bring action for partition thereof.

9. Use of Common Areas and Limited Common Areas. Subject to the limitations contained in the Declaration, any Unit Owner shall have the non-exclusive right to use and enjoy the Common Areas and shall have the exclusive right to use and enjoy the Limited Common Areas designated herein (and on the Map) for exclusive use by such Unit Owner.

10. Unit Maintenance. Each Owner shall at his own cost and expense maintain, repair, paint, re-paint, tile, tax, paper or otherwise refinish and decorate the interior surfaces of the walls, ceilings, floors, windows and doors forming the boundaries of his Unit and all walls, ceiling, floors, windows and doors within such boundaries. In addition to decorating and keeping the interior of his Unit in good repair and in a clean and sanitary condition, he shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heater, heating equipment, air conditioner, lighting fixtures, refrigerator, dishwasher, disposal equipment, range, or other appliances or fixtures that may be in, or connected with, his Unit.

11. Maintenance of Limited Common Areas. Each Owner shall at his own cost keep the Limited Common Areas designed for use in connection with his Unit in a clean, sanitary and attractive condition at all times.

12. Easement for Encroachment. If any part of the Common Areas encroaches or shall hereafter encroach upon a Unit or Units, an easement for such encroachment and for the maintenance for the same shall and does exist. If any part of a Unit encroaches or shall hereafter encroach upon the Common Areas, or upon an adjoining Unit or Units, an easement for such encroachment and for the maintenance shall and does exist. Such encroachments shall not be considered to be encumbrances either to the Common Areas or the Units. Encroachments referred to herein include, but are not limited to, encroachments caused by error in the original construction of the building(s) on the Tract, by error in the Map, by settling, rising or shifting of the earth, or by changes in position caused by repair or reconstruction of the Project or any part thereof.

13. Access for Repair of Common Areas. Some of the Common Areas are or may be located within the Units or may be conveniently accessible only through the Units. The Owners of the other Units shall have the irrevocable right, to be exercised by

the Committee, as its agent, to have access to each Unit and to all Common Areas from time to time during such reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas located therein or accessible therefrom or for making emergency repairs therein necessary to prevent damage to the Common Areas or to another Unit or Units. The Committee shall also have such rights independent of the agency relationship. Damage to the interior of any part of a Unit or Units resulting from the maintenance, repair, emergency repair, or replacement of any of the Common Areas or as a result of emergency repairs within another Unit at the instance of the Committee or of Unit Owners; provided, that if such damage is the result of negligence of the Owner of a Unit, then such Owner shall be financially responsible for all such damage. Such damage shall be repaired and the property shall be restored substantially to the same condition as existed prior to damage. Amounts owing by Owners pursuant hereto shall be collected by the Committee by assessment.

14. Right of Ingress, Egress, Lateral Support. Each Owner shall have the right to ingress and egress over, upon and across the Common Areas necessary for access to his Unit, and to the Limited Common Areas designated for use in connection with his Unit, and each Owner shall have the right to the horizontal and lateral support of a Unit, and such rights shall be appurtenant to and pass with the title to each Unit.

15. Easement to Management Committee. The Management Committee shall have non-exclusive easements to make such use of the Common Areas as may be necessary or appropriate to perform the duties and functions which it is obligated or permitted to perform pursuant to this Declaration.

16. Easement for Utility Services. There is hereby created a blanket easement upon, across, over and under the Tract above described in Article II for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to, water, sewers, gas, telephones, electricity, and other utility services.

17. Legal Description of a Unit. Every conveyance or contract for the sale of a Unit and every other instrument affecting title to a Unit may describe that Unit by the number shown on the Map with the appropriate reference to the Map and to this Declaration, as each shall appear on the records of the County Recorder of Salt Lake County, Utah, and in substantially the following form:

Unit \_\_\_\_\_ in Building \_\_\_\_\_  
as shown in the Record of Survey Map  
for Mountain View Park Condominium  
appearing in the Records of the County  
Recorder of Salt Lake County, Utah, in  
Book \_\_\_\_\_ Page \_\_\_\_\_ of Plats,  
and as defined and described in the

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Declaration of Condominium of  
Mountain View Park (Phase No. 1)  
appearing in such records in  
Book \_\_\_\_\_, Page \_\_\_\_\_ of  
Records.

This conveyance is subject to the provisions of the aforesaid Declaration of Condominium of Mountain View Park (Phase No. 1)

Such description will be construed to describe the Unit, together with the appurtenant undivided interest in the Common Areas, and to incorporate all the rights incident to Ownership of a Unit and all the limitations on such ownership as described in this Declaration.

18. Status and General Authority of Committee.

(a) Except as hereinafter provided, the Condominium Project shall be managed, operated, and maintained by the Management Committee as agent for the Unit Owners. The Committee shall, in connection with its exercise of any of the powers hereinafter provided, constitute a legal entity capable of dealing in the Committee's name. The Management Committee shall have, and is hereby granted, the following authority and powers:

(1) The authority without the vote or consent of the Unit Owners or of any other person(s) to grant or create on such terms as it deems advisable, utility and similar easements over, under, across, and through the Common Areas.

(2) The authority to execute and record, on behalf of all of the Unit Owners, any amendments to the Declaration or the Map which has been approved by the vote or consent necessary to authorize such amendment.

(3) The power to sue and be sued.

(4) The authority to enter into contracts relating to the Common Areas and other matters over which it has jurisdiction, so long as any vote or consent of the Unit Owners necessitated by the subject matter of the agreement has been obtained.

(5) The power and authority to convey or transfer any interest in real property, so long as the vote or consent necessary under the circumstances have been obtained.

(6) The power and authority to purchase, or otherwise acquire, and accept title to, any interest in real property, so long as such action has been authorized by any vote or consent which is necessary under the circumstances.

(7) The power and authority to add any interest in real property obtained pursuant to subparagraph 6 above to the Project, so long as such action has been authorized by the necessary vote or consent.

(8) The authority to promulgate such reasonable rules, regulations, and procedures as may be necessary or desirable to aid the Committee in carrying out its functions or to insure that the Project is maintained and used in a manner consistent with the interests of the Unit Owners.

(9) The power and authority to perform any other acts and to enter into any other transactions which may be reasonably necessary for the Committee to perform its functions as agent for the Unit Owners. Any instrument executed by the Committee relating to the Common Areas of the Project that recites facts which, if true, would establish the Committee's power and authority to accomplish through such instrument what is purported to be accomplished thereby, shall conclusively establish said power and authority in favor of any person who in good faith and for value relies upon said instrument.

(b) Composition of Committee, Election, Vacancy.

The Management Committee shall be composed of five (5) members. At the first regular Unit Owners' meeting two (2) Committee members shall be elected for one-year term and three(3) members for two-year term. At any annual Owners' meeting thereafter any vacant seat on the Committee shall be filled with a member elected for a two-year term. Members shall serve on the Committee until their successors are elected and qualify. Only Unit Owners or spouses of Unit Owners and officers, directors, agents and employees of Owners other than individuals shall be eligible for Committee membership. At the annual meeting each Unit Owner may vote his percentage of undivided ownership interest in favor of as many candidates for Committee membership as there are seats on the Committee to be filled; provided, however, that until title to Units representing 75% of the votes of all Unit Owners (exclusive of the votes of Owners of Units within any future expansion of the project), Declarant alone, at its option, shall select the Management Committee or act as the Management Committee. If Declarant elects to waive such option at any time prior to the said conveyance of 75% of the votes of all Unit Owners, then Declarant

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may waive such option by recording a written notice of such waiver whereupon the control of the Unit Owners in the Management Committee shall become automatically vested thirty days thereafter. In the event a Committee seat which was filled by Declarant becomes vacant, Declarant shall have the right to select a replacement member to sit on the Committee for the balance of the term associated with the vacated seat. In all other cases of vacancy the remaining Committee members shall elect a replacement to sit on the Committee until the expiration of the term for which the member being replaced was elected. Committee members shall be reimbursed for all expenses reasonably incurred in connection with Committee business.

(c) Rights and Duties. (1) The business, property and affairs of the Project shall be managed and governed by the Management Committee. The Committee shall be responsible for the exclusive control and management of the Common Areas and all improvements thereon (including furnishings and equipment related thereto), and shall cause the same to be kept in good, clean, attractive and sanitary condition, order and repair. The Committee shall be responsible for the maintenance and repair of exterior surfaces of the buildings, including, without limitation, the painting of the same as often as necessary, the replacement of trim, the maintenance and repair of roofs, the maintenance, repair and replacement of all other Common Areas. The specification of duties of the Committee with respect to particular Common Areas shall not be construed to limit its duties with respect to other Common Areas. The cost of such management, operation, maintenance and repair by the Committee shall be borne by assessment as hereinafter provided. The Committee may carry out any of its functions which are capable of delegation through a manager. The manager so engaged shall be responsible for managing the Common Areas and shall, to the extent permitted by law and the terms of the agreement with the Committee, be authorized to perform any of the functions or acts required or permitted to be performed by the Committee itself.

(2) The Committee may make reasonable rules and regulations governing the use of the Units and of the Common Areas, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Committee may suspend any Owner's voting rights at the meeting of Unit Owners during any period or periods during which such Owner fails to comply with such rules and regulations, or with any other obligations of such Owners under this Declaration. The Committee may also take judicial action against any Owner to enforce compliance with such rules and regulations or other obligations or to obtain damages for non-compliance, all to the extent permitted by law.

(3) The Committee may exercise any other right or privilege given to it expressly by this Declaration or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

(d) Payment for Services, Etc. The Management Committee may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Committee shall

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determine to be necessary or desirable for the proper operation of its functions in the Project, whether such Committee or by any person or entity with whom or it contracts. The Committee may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Project or the enforcement of this Declaration.

(e) Personal Property Ownership and Use. The Committee may acquire and hold for the use and the benefit of all of the Owners tangible and intangible personal property and may dispose of the same by sale or otherwise, and the beneficial interest in any such property shall be deemed to be owned by the Owners in the same proportion as their respective interests in the Common Areas. Such interest shall not be transferrable except with the transfer of a Unit. A transfer of a Unit shall transfer to the transferee ownership of the transferor's beneficial interest in such property without any reference thereto, and such beneficial interest may in no event be reserved by the transferor of a Unit.

(f) Capital Improvements. There shall be no structural alterations, capital additions to, or capital improvements of, the Common Areas requiring expenditure in excess of \$3,000.00 without the prior approval of Unit Owners holding a majority of the voting power.

19. Provisions Concerning Assessments.

(a) Agreement to Pay Assessments. Each Owner of a Unit by the acceptance of a deed or contract therefor, whether or not it be so expressed in the deed or contract, shall be deemed to covenant and agree with each other and with the Committee to pay annual assessments made by the Committee for the purposes provided in this Declaration, and special assessments for capital improvements and other matters as provided in this Declaration. Such assessments shall be fixed, established and collected from time to time in the manner provided hereunder.

(b) Basis of Assessments. The total annual assessments against all Units shall be based upon advance estimates of cash requirements by the Committee to provide for the payment of all estimated expenses growing out of or connected with the maintenance and operation of the Common Areas, which estimates may include among other things, expenses of management; taxes and special assessments levied by governmental authorities until the Units are separately assessed as provided herein; premiums for all insurance which the Committee is required or permitted to maintain pursuant hereto; common lighting; water charges; repairs, maintenance and replacement of the Common Areas; wages for employees of the Committee; legal and accounting fees; any deficit remaining from a previous period; the creation of a reasonable contingency reserve; surplus and/or sinking fund, and any other expenses and liabilities which may be incurred by the Committee for the benefit of the Owners under or by reason of this Declaration.

(c) Apportionment of Expenses. Expenses attributable to the Common Areas and to the Project as a whole shall be apportioned among all Units in proportion to their respective undivided interest in the Common Areas, provided, however, that for this purpose Declarant shall be deemed to own only the undivided interest in the Common Areas based upon Units which have been completed but not conveyed by Declarant.

(d) Method, Payment of Assessments, Etc. Annual

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assessments shall be made on a calendar year basis. The Committee shall give written notice to each Owner as to the amount of the annual assessment with respect to his Unit not less than thirty (30) days nor more than sixty (60) days prior to the beginning of the next calendar year, provided, however, that the first annual assessment shall be for the balance of the calendar year remaining after the day fixed by the Committee as the date of commencement of the assessment. Each annual assessment shall be due and payable in monthly installments. Each monthly assessment shall bear interest at the rate of twelve percent (12%) per annum from the date it becomes due and payable if not paid within thirty (30) days after such date. Such monthly assessment becomes payable upon the date the Unit Owner purchases his Unit whether by conveyance of title or entering into a contract of sale and purchase, and thereafter each monthly payment shall be due and payable on the first day of each and every month in advance.

(e) Special Assessments. In addition to the annual assessments authorized hereunder, the Committee may levy in any assessment year, special assessments, subject to the provisions of Paragraph 18(f) above, payable over such a period as the Committee may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the Common Areas of the Project or any other part thereof, or for any other expenses incurred or to be incurred as provided in this Declaration. This paragraph shall not be construed as an independent source of authority for the Committee to incur expenses, but shall be construed to prescribe the manner of assessing for expenses authorized by other paragraphs hereof. Any amounts assessed pursuant hereto shall be assessed to Owners in proportion to their respective undivided interests in the Common Areas. Declarant's interest in the Common Areas shall be determined on the same basis set forth in subparagraph (c) above. Notice in writing of the amount of such special assessment and the time for payment thereof shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given. A special assessment shall bear interest at the rate of twelve percent (12%) per annum from the date it becomes due and payable if not paid within thirty days after such date.

(f) Lien for Unpaid Assessments. (1) All sums assessed to any Unit pursuant to this section, together with interest thereon as provided herein, shall be secured by a lien on such Unit in favor of the Committee. Such lien shall be superior to all other liens and encumbrances on such Unit, except only for: (a) valid tax and special assessment liens on the Unit in favor of any governmental assessing authority; and (b) encumbrances on the interest of the Unit Owner recorded prior to the date notice of the lien provided for herein is recorded which by law would be a lien prior to subsequently recorded encumbrances. All other lienors acquiring liens on any Unit after this Declaration shall have been recorded shall be deemed to consent that such liens shall be inferior to future liens for assessments, as provided herein, whether or not such consent be specifically set forth in the instruments creating such liens.

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(2) To evidence a lien for sums assessed pursuant to this section, the Committee may prepare a written notice of lien setting forth the amount of the assessment, the due date, the amount remaining unpaid, the name of the Unit Owner and a description of the Unit. Such a notice shall be signed by the Committee Chairman or Treasurer and then recorded in the office of the County Recorder of Salt Lake County, Utah. No notice of lien shall be recorded until there is a delinquency in payment of the assessment. Such lien may be enforced by foreclosure by the Committee in the same manner in which mortgages or trust deeds on real property may be foreclosed in Utah. In any such foreclosure the Unit Owner shall be required to pay the cost and expenses of such proceeding, the cost and expenses of filing the notice of lien and all reasonable attorney's fees. All such costs, expenses and fees shall be secured by the lien being foreclosed. The lien shall also secure, and the Owner shall also be required to pay to the Committee any assessments against the Unit which shall become due during the period of foreclosure. The Committee shall have the right and power to bid an amount equal to its then existing lien at the foreclosure sale or other legal sale to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the same as the Owner thereof.

(3) A release of notice of lien shall be executed by the Committee and recorded in the office of the County Recorder of Salt Lake County, Utah, upon payment of all sums and secured by a lien which has been made the subject of a recorded notice of lien.

Any encumbrancer holding a lien on a Unit may pay, but shall not be required to pay, any amounts secured by the lien created by this section, and upon such payments such encumbrancer shall be subrogated to all rights of the Committee with respect to such lien, including priority.

The Committee shall report to any encumbrancer of a Unit any unpaid assessments remaining unpaid for longer than thirty (30) days after the same shall have become due; provided, however, that such encumbrancer first shall have furnished to the assessing body written notice of such encumbrance.

(g) Personal Obligation Assessments. The amount of any annual or special assessment against any Unit shall be the personal obligation of the Owner thereof to the Committee. Suit to recover a money judgment for such personal obligation shall be maintainable by the Committee without foreclosing or waiving the lien securing the same. No Owner may avoid or diminish any personal obligation by waiver of the use and enjoyment of any of the Common Areas or by abandonment of his Unit.

(h) Information Concerning Unpaid Assessments. Upon payment of a reasonable fee not to exceed the sum of \$10.00 or such other amount as may be allowed by the Act, and upon written request of any Owner or mortgagee, prospective mortgagee or prospective purchaser of a Unit, the Committee concerned shall issue a written statement setting forth the amount of the unpaid

assessments, if any, with respect to such Unit; the amount of the current yearly assessment and the portion thereof which has theretofore been paid; credit for advance payments or prepaid items, including, but not limited to, an Owner's share of prepaid insurance premiums; and such statement shall be conclusive upon the Committee in favor of persons who rely thereon in good faith. Unless such request for a statement of account shall be complied with within ten (10) days, all unpaid assessments which became due prior to the lien of a mortgagee which became due prior to the date of making such request shall be subordinate to the lien of a mortgagee which acquired its interest subsequent to requesting such statement. Where a prospective purchaser makes such request, both the lien for such unpaid assessments and the personal obligations of the purchaser shall be released automatically if the statement is not furnished within ten (10) days period provided herein and thereafter an additional written request is made by such purchaser and is not complied with within ten (10) days, and the purchaser subsequently acquires the Unit.

(i) Purchaser's Obligation. Subject to the provisions of subparagraph (h), a purchaser of a Unit shall be jointly and severally liable with the seller for all unpaid assessments against the Unit up to the time of the grant or conveyance, without prejudice to the purchaser's right to recover from the seller the amount paid by the purchaser for such assessments.

21. Use of Condominium and Common Areas.

(a) Single Family Housing Use. Each of the Units in the Project is intended to be used for single family residential housing and is restricted to such use.

(b) Restrictions Concerning Common Areas. There shall be no obstructions of the Common Areas by the Owners, their tenants, guests or invitees without the prior written consent of the Committee. The Committee may by rules and regulations prohibit or limit the use of the Common Areas as may be reasonably necessary for protecting the interests of all the Owners or protecting the Units or the Common Areas. Nothing shall be kept or stored on any part of the Common Areas without the prior written consent of the Committee, except as specifically provided herein. Nothing shall be altered on, constructed in or removed from the Common Areas except upon the prior written consent of the Committee.

(c) Miscellaneous Restrictions. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would result in the cancellation of the insurance on the Project or any part thereof or increase of the rate of the insurance on the Project or any part thereof over what the Committee, but for such activity, would pay, without the prior written consent of the Committee. Nothing shall be done or kept in any Unit or in the Common Areas or any part thereof which would be a violation of any statute, rule, ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Common Areas or any part thereof shall be committed

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by any Owner or any invitee of any Owner, and each Owner shall indemnify and hold the Committee and the Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees; provided, however, that any invitee of the Declarant shall not under any circumstances be deemed to be an invitee of any other Owner. No noxious, destructive or offensive activity shall be carried on in any Unit or in the Common Areas or any part thereof, nor shall anything be done therein which may be or may become an annoyance or nuisance to any other Owner or to any person at any time lawfully residing in the Project.

(d) Animals. No livestock or poultry of any kind shall be raised, bred, or kept in any Unit or in the Common Areas, except that cats and dogs of household variety may be kept in the Units, provided, however, that both cats and dogs must be exercised on leash in the Common Areas, and provided, further, that rules and regulations concerning cats and dogs shall be strictly observed.

(e) Parking Recreational Vehicles. As shown in the Map, Declarant intends to create "Recreational Vehicle Parking Area" (the Area) for the purpose of parking recreational vehicles. Upon the Area being completed for use, every boat, camper, trailer and other recreational vehicles shall be parked only in the Area and not elsewhere in the Project. The Committee is empowered to charge a fee as it deems proper for such parking.

(f) No Violation of Rules and Regulations. No Owner shall violate the rules and regulations for the use of the Units and of the Common Areas as adopted from time to time by the Management Committee.

(g) Restrictions on Alterations. No structural alterations to any Unit shall be made by any Owner without the prior written consent of the Committee.

(h) Declarant's Right to Sell Units. Notwithstanding anything contained herein to the contrary, until the Declarant has completed and sold all of the Units, neither the Unit Owners who have purchased Units from the Declarant nor the Committee shall interfere with the completion of improvements and sale of the remaining Units. The Declarant may make such use of the unsold Units and the Common Areas as may facilitate such completion and sale, including but not limited to, the maintenance of a sales office and personnel, the showing of the Units, showing of the Common Areas, and the conducting of advertising and promotional programs.

22. Insurance and Bond. The Management Committee shall secure or cause to be secured and maintained at all times the following insurance and bond coverages:

(a) A policy or policies of fire and casualty insurance, with extended coverage endorsement, for the full insurable replacement value of the entire Project. Such policy or policies shall be made payable to the Committee and all persons holding an interest in the Project or any of the Units, as their interests may appear.

(b) An appropriate fidelity bond coverage for any person or entity handling funds of the Committee, including, but not limited to, employees of the professional managers, the amount of such coverage to be as required by the Federal National Mortgage Association and/or the Federal Home Loan Mortgage Corporation.

(c) A policy or policies insuring the Committee, the Manager, and the Unit Owners against any liability incident to the ownership, use, or operation of the Project or of any Unit which may arise among themselves, to the public, and to any invitees or tenants of the Project or of the Unit Owners. Limits of liability under such insurance shall be not less than \$300,000.00 for any person injured, \$1,000,000.00 for all persons injured in any one accident, and \$100,000.00 for property damage resulting from one occurrence. Such policies shall be issued on a comprehensive liability basis and shall provide a cross liability endorsement pursuant to which the rights of the named insureds as between themselves are not prejudiced.

(d) The following additional provisions shall apply with respect to insurance:

(a) In addition to the insurance described above, the Committee shall secure and at all times maintain insurance against such risks as are or hereafter may be customarily insured against in connection with condominium projects similar to the Project in construction, nature, and use.

(b) The Committee shall have the authority to adjust losses.

(c) Insurance secured and maintained by the Committee shall not be brought into contribution with insurance held by the individual Unit Owners or their mortgagees.

(d) Each policy of insurance obtained by the Committee shall, if possible, provide: A waiver of the insurer's subrogation rights with respect to the Committee, the Manager, the Unit Owners, and their respective servants, agents, and guests; that it cannot be cancelled, suspended, or invalidated due to the conduct of any member, officer, or employee of the Committee or of the Manager without a prior written demand that the defect be cured; that any "no other insurance" clause therein shall not apply with respect to insurance held individually by the Unit Owners.

(e) Any Unit Owner may obtain additional insurance at his own expense, so long as such additional insurance does not have the effect of decreasing the amount which may be realized under any policy maintained by the Committee. Any Unit Owner who individually obtains insurance covering any portion of the Project shall supply the Committee with a copy of his policy within thirty (30) days after he acquires such insurance.

(f) Notwithstanding anything herein contained to the contrary, insurance coverages must be in such amounts and meet other requirements of the Federal National Mortgage Association and/or the Federal Home Loan Mortgage Corporation.

23. Damage to Project. In the event of damage to or destruction of part or all of the improvements in the Project, the following procedures shall apply:

(a) If proceeds of the insurance maintained by the Management Committee are alone sufficient to repair or reconstruct the damaged or destroyed improvement, such repair or reconstruction shall be carried out.

(b) If less than 75% of the Project's improvements are destroyed or substantially damaged, and if proceeds of the insurance maintained by the Committee are not alone sufficient to accomplish repair or reconstruction, restoration shall be carried out and all the Unit Owners shall be assessed for any deficiency on the basis of their respective percentages of undivided interest in the Common Areas and Facilities.

(c) If 75% or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Management Committee are not alone sufficient to accomplish restoration, and if the Unit Owners within 100 days after the destruction or damage by a vote of at least 75% elect to repair or reconstruct the affected improvements, restoration shall be accomplished in the manner directed under subparagraph (b) above.

(d) If 75% or more of the Project's improvements are destroyed or substantially damaged, if proceeds of the insurance maintained by the Committee are insufficient to accomplish restoration, and if the Unit Owners do not, within 100 days after the destruction or damage and by a vote of at least 75% elect to repair or reconstruct the affected improvements, the Management Committee shall promptly record with the Salt Lake County Recorder a notice setting forth such facts. Upon the recording of such notice the provisions of subsections (1) through (4) of Section 57-8-31, Utah Code Annotated (1953), shall apply and shall govern the rights of all parties having an interest in the Project or any of the Units.

Any reconstruction or repair which is required to be carried out by this Paragraph 23 shall be accomplished at the instance and direction of the Management Committee. Any determination which is required to be made by this Paragraph 23 shall be accomplished at the instance and direction of the Management Committee. Any determination which is required to be made by this Paragraph 23 regarding the extent of damage to or destruction of Project improvements shall be made by three MAI appraisers selected by the Management Committee. The decision of any two such appraisers shall be conclusive.

24. Expansion of the Project.

(a) Reservation of Option to Expand. Declarant hereby reserves the option to expand the Condominium Project to include additional Units in the Project. This option to expand shall expire seven years from the effective date of the Declaration unless sooner terminated by Declarant's recorded Waiver of such option, there being no other circumstances which will cause the option to expire prior to said seven years. Such right may be exercised without first obtaining the consent or vote of Unit Owners and shall be limited only as herein specifically provided.

Such Units shall be constructed on Additional Land. The total number of Units in the Project, as expanded, shall not exceed 224 Units, nor shall the total acreage of the expanded area exceed approximately six acres.

(b) Expansion Declarations and Maps. Such expansion may be accomplished by the filing for record by Declarant in the office of the County Recorder of Salt Lake County, Utah, no later than seven years from the date this Declaration is recorded, a Declaration or Declarations containing a legal description of the site or sites for new Units, together with a Map or Maps containing the same information with respect to the new Units as was required on the Map with respect to the Phase No. 1 Units. The expansion may be accomplished in successive phases or in one expansion.

(c) Expansion of Definitions. In the event of such expansion the definitions used in this Declaration automatically shall be expanded to encompass and refer to the Project as so expanded. E.g., "Tract" shall mean the real property hereinabove described in Section II, page 6, plus any additional real property added to the Project by a Declaration or Declarations, and reference to this Declaration shall mean this Declaration as well as subsequent Declaration(s). All conveyances of Units after such expansion shall be effective to transfer rights in the Project, as expanded by use of the form of description set forth in paragraph 17 hereof, with additional references to the applicable Declaration and the Map. The recordation in the office of the Salt Lake County Recorder of a Map incident to any expansion shall operate automatically to grant, transfer, and convey to the Owners of Units in the Project as it existed before such expansion the respective undivided interests set forth in Exhibit "A" hereto in the new Common Areas added to the Project as a result of such expansion. Such recordation shall also operate to vest in any then mortgagee of any Unit in the Project as it existed interest so acquired by the Owner of the Unit encumbering the new Common Areas added to the Project as a result of such expansion.

(d) Declaration Operative on New Units. The new Units shall be subject to all the terms and conditions of this Declaration and of subsequent Declaration(s), incident to expansion of the Project, and the Units therein shall be subject to condominium ownership with all the incidents pertaining thereto as specified herein, upon recording such Map and Declaration in the said office of the Salt Lake County Recorder.

(e) Right of Declarant to Adjust Percentages of Common Areas. Each deed of a Unit shall be deemed to irrevocably reserve to the Declarant the power to appoint to Unit Owners, from time to time, the percentages in the Common Areas set forth in Declaration incident to expansion. The proportionate interest of each Unit Owner in the Common Areas after any expansion of the Project shall be based on the par value that his Unit bears to the total par value of all Units of the Project as expanded. A power coupled with an interest is hereby granted to the Declarant, its successors and assigns, as attorney in fact to shift percentages of the Common Areas in accordance with subsequent Declaration(s) recorded pursuant hereto and each deed of a Unit in the Project shall be deemed a grant of

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such power to said attorney in fact. Various provisions of this Declaration and deeds and mortgages of the Units may contain clauses designed to accomplish a shifting of the Common Areas. None of said provisions shall invalidate the other, but each shall be deemed supplementary to the other toward the end that a valid shifting of the Common Areas can be accomplished. Notwithstanding anything to the contrary herein, no change in the percentage of undivided interest in the Common Areas may be effected more than seven (7) years after the effective date of this Declaration.

Accordingly, upon the recordation of a future Declaration and Map incident to any expansion, the revised schedule of undivided interests in the Common Areas contained therein shall automatically become effective for all purposes and shall fully supersede any similar schedule which was contained in any Declaration associated with any prior phase. In the event the provisions of the separate instruments relating to the Project conflict irreconcilably, the terms of that instrument which was recorded most recently shall control.

(f) Description of Units; Par Value. The Project covered hereby contains five different Units and are assigned par value based on points as follows:

<u>Unit Type</u>	<u>No. Units</u>	<u>Approximate Sq. ft. Units</u>	<u>Par Value Per Unit</u>	<u>Total Par Value</u>
A. 3 Bedrooms 2 Bath	20	1,260	78	1,560
B. 2 Bedrooms 2½ Bath	20	1,115	70	1,400
C. 2 Bedrooms 2½ Bath	40	1,108	70	2,800
D. 2 Bedrooms 1 Bath,	20	1,014	62	1,240
E. 1 Bedroom 1 Bath	20	737	51	1,020
				8,020

For the purpose of such computation it has been assumed that Units to which are attributable a total of 14,436 points will be constructed in the Project, as expanded. The undivided interest in the Common Areas constituting part of any Unit is expressed as a percentage the numerator of which is the number of points attributable to such Unit and the denominator of which is 14,436.

If the total number of points attributable to units which shall have been constructed within seven (7) years from the effective date of this Declaration shall be fewer than 14,436 points, the un-conveyed interest in the Common Areas shall automatically be transferred to and vested in the then Owners of Units without further conveyance, each Owner to receive a percentage of such un-conveyed interest sufficient to make the total percentage of undivided interest of such Owner in the Common Areas equal to a percentage the numerator of which shall be the number of points attributable to the Unit of such Owner and the denominator of which shall be the total number of points attributable to all Units in the Project on the date of such transfer. In such event, Declarant shall record in the office of the County Recorder of

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Salt Lake County, Utah, a statement of the number of points attributable to Units constructed within that seven year period. Recordation of such statement shall be conclusive evidence of the facts stated therein, but shall not be essential to the transfer.

(g) Other Provisions Concerning Expansion. If the Project is expanded as hereinbefore contained, then it is further provided that:

(a) All or any part of the Additional Land may be added to the Project without any limitations whatsoever save and except that all additional Units created must be restricted to single family residential housing.

(b) Portions of the Additional Land may be added to the Project at different times without any limitations.

(c) No assurances are made concerning:

(1) The locations of any improvements that may be made on any portion of the Additional Land that may be added to the Project.

(2) Type, kind or nature of improvements which may be created on any portion of the Additional Land.

(3) Whether any Units created on any portion of the Additional Land will be substantially identical to those within the initial Project.

(4) Type, size, or maximum number of Limited Common Areas which may be created within any portion of the Additional Land added to the Project.

(h) No Obligation to Develop. Notwithstanding anything to the contrary which may be contained herein, this Declaration is not intended, and shall not be construed so as, to impose upon Declarant any obligation respecting, or to restrict Declarant in any way with regard to: (a) The submission of any portion of the Entire Tract to the provisions of the Act as a Tract or Tracts; (b) The creation, construction, or addition to the Project of any Phase or Phases; (c) The carrying out in any particular way or within any particular time of any development which may be undertaken; or (d) The taking of any particular action with respect to the Entire Tract, the Additional Land, the Project, any Tract, or any Phase. Accordingly, Declarant may create on Additional Land any development which would be entirely independent and unrelated to the Project created by this Declaration.

25. Amendment. Except as provided below, the vote of at least 2/3 of the undivided ownership interest in the Common Areas and Facilities shall be required to amend this Declaration or the Record of Survey Map. Any amendment so authorized shall be accomplished through the recordation of an instrument executed by the Management Committee. In such instrument the Committee shall certify that the vote required by this paragraph for amendment has occurred. The foregoing right of amendment shall be

subject to the following paramount rights:

- (a) Until Units representing 75% of the undivided ownership interest in Phase No. 1 of the Project have been sold, Declarant shall have, and is hereby vested with, the right to amend this Declaration or the Record of Survey Map. Such right shall obtain without regard to the subject matter of amendment, so long as the amendment involved is consistent with law.
- (b) Until all portions of the Additional Land are included in the Project, or until the right to enlarge the Project through the addition of Phases terminates, whichever event first occurs, Declarant shall have, and is hereby vested with, the right to amend this Declaration and the Record of Survey Map as may be reasonably necessary or desirable to facilitate the practical, technical, administrative, or functional integration of Phase No. 1 or of any subsequent Phase of the Project.
- (c) As each additional Phase is added to the Project, the Declaration, and the Map associated with such Phase shall, in the manner detailed in Paragraph 24 of this Declaration, supplement and amend all such instruments relating to all Phases previously included in the Project.

26. Consent Equivalent to Vote. In those cases in which the Act or this Declaration requires the vote of a stated percentage of the Project's undivided ownership interest for the authorization or approval of a transaction, such requirement may be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Unit Owners who collectively hold at least the necessary percentage of undivided ownership interest.

27. Service of Process. Mas Yano, whose address is 560 South 300 East, Suite 100, Salt Lake City, Utah 84111, is the person to receive service of process in cases authorized by the Act. The Management Committee shall, however, have the right to appoint a successor or substitute process agent. Such successor or substitute agent and his address shall be specified by an appropriate instrument filed in the office of the County Recorder of Salt Lake County, State of Utah. Provided, however, that the agent for service of process named in the Declaration relating to the Phase most recently added to the Project shall automatically constitute such agent for the Project, and shall automatically replace any agent previously named by the Management Committee or any agent designated in any enabling declaration relating to a previously added Phase.

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28. Mortgagee Protection. Notwithstanding anything to the contrary contained in the Declaration:

(a) An adequate reserve fund for replacement of the Common Areas must be established and shall be funded by regular monthly payments rather than by special assessments.

(b) There shall be established a working capital fund for the initial months of operation of the Project equal to a minimum amount of two months' estimated Common Area charge for each Unit.

(c) Any mortgage holder which comes into possession of the Unit pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage or deed (or assignment in lieu of foreclosure) shall be exempt from any "right of first refusal" or other provisions relating to sale or lease of the Units in the Project.

(d) Any management agreement for the Project shall be terminable by either party without cause or payment of termination fee upon ninety (90) days' written notice thereof and the term of any such agreement shall not exceed three years.

(e) In the event of substantial damage to or destruction of any Unit or any part of the Common Areas, the institutional holder of any first mortgage on a Unit shall be entitled to timely written notice to any such damage or destruction. No Unit Owner or other party shall be entitled to priority over such institutional holder with respect to the distribution to such Unit of any insurance proceeds.

(f) If any Unit or portion thereof or the Common Areas or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the institutional holder of any first mortgage of a Unit shall be entitled to timely written notice of any such proceeding or proposed acquisition and no Unit Owner or other party shall have priority over such institutional holder with respect to the distribution to such Unit of the proceeds of any award or settlement.

(g) With the exception of a lender in possession of a Unit following a default in a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Unit Owner shall be permitted to lease his unit for transient or hotel purposes. No Unit Owner may lease less than the entire unit. Any lease agreement shall provide that the terms of the lease shall be subject in all respects to the provisions of the Declaration and By-Laws and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All leases shall be in writing.

(h) Each holder of a first mortgage lien on a unit who comes into possession of a Unit by virtue of foreclosure of the mortgage, or by deed or assignment in lieu of foreclosure, or any purchaser at a foreclosure sale, shall take the Unit free of any unpaid claims or assessments and charges against the Unit which accrue prior to the time such holder comes into possession of the Unit, except for claims for a pro-rata share of such assessments or charges resulting from a pro-rata re-allocation of such assessments or charges to all Units in the Project, including the mortgaged Unit.

(i) Any holder of the Mortgage is entitled to written notification from the Management Committee of any default by the Mortgagor of such Unit in the performance of such Mortgagor's obligation under the Declaration which is not cured within thirty (30) days.

(j) Any lien which the Management Committee may have on any Unit in the Project for the payment of Common Expense assessments attributable to such Unit will be subordinate to the lien or equivalent security interest of any first mortgage on the Unit recorded prior to the date any such Common Expense assessments become due.

(k) Unless at least 75% of the first Mortgagees (based on one vote for each Mortgage owned) of Units have given their prior written approval neither the Management Committee nor the Association of Unit Owners shall:

(1) By act or omission, seek to abandon or terminate the Project, except for abandonment or termination provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain.

(2) Change the pro-rata interest or obligations of any Unit for (i) purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards and for (ii) determining the pro-rata share of ownership of each Unit in the appurtenant Common Areas.

(3) Partition or subdivide any Unit.

(4) Make any material amendment to the Declaration or to the By-Laws of the Management Committee, including, but not limited to, any amendment which would change the percentage interests of the Unit Owners in the Common Areas, except as provided in paragraph 24 relating to expansion of the Project and paragraph 25.

(5) By act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer, the Common Areas. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Areas of the Project shall not be deemed a transfer

within the meaning of this subparagraph).

(6) Use hazard insurance proceeds for losses to any condominium property (whether to Units or to the Common Areas) for other than the repair, replacement or reconstruction of such improvements, except as provided by statute in cases of substantial loss to the Units and/or the Common Areas of the Project.

(7) Terminate professional management and assume self-management of the Project.

29. Duty of Owner to Pay Taxes on Unit Owned. It is understood that under the Act each Unit (and its percentage of interest in the Common Areas) in the Project is subject to separate assessment and taxation of each taxing authority and the special district(s) for all types of taxes and assessments authorized by law, and that as a result thereof no taxes will be assessed or levied against the Project as such. Accordingly, each Unit Owner will pay and discharge any and all taxes and assessments which may be assessed against him on his Unit.

30. Covenants to Run with Land; Compliance. This Declaration and all the provisions hereof shall constitute covenants to run with the land or equitable servitudes, as the case may be, and shall be binding upon and shall inure to the benefit of Declarant, all parties who hereafter acquire any interest in a Unit or in the Project, and their respective grantees, transferees, heirs, devisees, personal representatives, successors, and assigns. Each Owner or occupant of a Unit shall comply with, and all interests in all Units shall be subject to, the terms of the Act, the terms of this Declaration, and the provisions of any rules, regulations, agreements, instruments, and determinations contemplated by this Declaration. By acquiring any interest in a Unit or in the Project, the party acquiring such interest consents to, and agrees to be bound by, each and every provision of this Declaration.

31. Enforcement. Each Unit Owner shall comply strictly with the provisions of this Declaration and with the administrative rules and regulations drafted pursuant thereto as the same may be lawfully amended from time to time and with the decisions adopted pursuant to this Declaration and the administrative rules and regulations, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, maintainable by the Management Committee or manager on behalf of the Unit Owners, or in a proper case, by an aggrieved Unit Owner.

32. Indemnification of Management Committee. Each member of the Management Committee shall be indemnified and held harmless by the Unit Owners against all cost, expenses, and liabilities whatsoever, including, without limitation, attorney's fees, reasonably incurred by him in connection with any proceeding to which he may become involved by reason of his being or having been a member of said Committee.

33. Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

34. Severability. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

35. Topical Headings. The headings appearing at the beginning of the paragraphs of this Declaration are only for convenience of reference and are not intended to describe, interpret, define or otherwise affect the content, meaning or intent of this Declaration or any paragraph or provision hereof.

36. Effective Date. This Declaration shall take effect upon recording in the office of the County Recorder of Salt Lake County, Utah.

IN WITNESS WHEREOF, the undersigned, being the Declarant, has caused this instrument to be executed and its seal be affixed hereto on the 14 day of MARCH, 1977.

H & W VENTURE,  
A Utah General Partnership  
By Wahlquist Enterprises, a limited  
partnership

By Carl Wahlquist  
Carl Wahlquist, its general partner

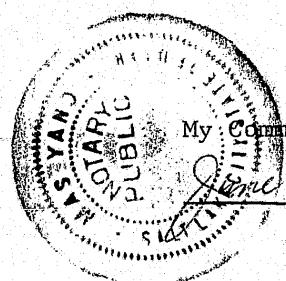
STATE OF UTAH )  
: ss.  
County of Salt Lake )

On this 14th day of March, 1977 personally appeared before me CARL WAHLQUIST, known to me to be a General Partner of Wahlquist Enterprises, a Limited Partnership, which is a partner of H & W VENTURE, a Utah General Partnership, that executed the foregoing instrument, who duly acknowledged to me that such partnership executed the same.

Massyland  
NOTARY PUBLIC  
Residing at:

My Commission Expires:

June 28, 1980



3004476 PM 1351

EXHIBIT "B"

BY-LAWS

I

IDENTITY

1.1 These are the By-Laws of the MOUNTAIN VIEW PARK Condominium Project.

II

APPLICATION

2.1 All Unit Owners, tenants, occupiers, guests, or others who might use the facilities of this Condominium Project in any manner are subject to the provisions set forth in these By-Laws. The mere acquisition or rental of any of the Units or the mere act of occupancy or use of any of said Units will signify that these By-Laws are accepted, ratified, and will be observed by such persons.

III

MEETING OF UNIT OWNERS

3.1 Place of Meetings. Meetings of the Unit Owners shall be held at such place within the State of Utah as the Management Committee may specify in the notice, except as herein otherwise specified.

3.2 Annual Meeting of Unit Owners. The first regular meeting of the Unit Owners shall be held on the 1st day of December, 1977, at such place as the Management Committee shall specify. Thereafter, the annual meeting shall be held on such day of each succeeding year; provided, however, that whenever such dates falls on a legal holiday, the meeting shall be held on the next succeeding business day, and provided further, that the Management Committee may by resolution fix the date of the annual meeting on such other date and at such place as it may deem appropriate or desirable.

3.3 Special Meetings of Unit Owners. Special meetings of the Unit Owners may be called at any time by written notice served by the Management Committee, or by Unit Owners having 30 percent of the total votes, delivered not less than seven (7) days prior to the date fixed for such meeting. Such meeting shall be held on the Project or at such other place as the Management Committee may specify and the notice thereof shall state the place, date, time and matters to be considered.

2024 RELEASE UNDER E.O. 14176

3.4 Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered 24 hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to each Unit Owner at the address given by such person to the Management Committee for the purpose of service of such notice or to the Unit of such person if no address has been given. Such address may be changed by Unit Owners from time to time by notice in writing to the Management Committee.

3.5 Quorum. At any meeting of the Unit Owners, the Owners of more than forty (40) percent in the aggregate in interest of the undivided ownership of Common Areas shall constitute a quorum for any and all purposes, except where by express provisions a greater vote is required, in which event a quorum shall be the number required for such vote. In the absence of a quorum the Chairman of the meeting may adjourn the meeting from time to time, without notice other than by announcement at the meeting, until holders of the amount of interest requisite to constitute a quorum shall attend. At any such adjourned meeting at which a quorum shall be present any business may be transacted which might have been transacted at the meeting as originally notified.

3.6 Voting. When a quorum, as provided in the Act is present at any meeting, the vote of Unit Owners representing more than fifty (50) percent of the undivided ownership of Common Areas, present in person or represented by proxy, shall decide any question of business brought before such meeting, including the election of the Management Committee, unless the question is one upon which, by express provisions of the statutes, the Declaration, or of these By-Laws, a different vote is required, in which case such express provision shall govern and control the decision of such question. All votes may be cast either in person or by proxy. All proxies shall be in writing, and in the case of proxies for the annual meeting, they shall be delivered to the Secretary at least five days prior thereto. Proxies for special Unit Owners' meetings must be of record with the Secretary at least two days prior to such meeting.

3.7 Waivers of Notice. Any Unit Owner may at any time waive any notice required to be given under these By-Laws, or by statutes or otherwise. The presence of a Unit Owner in person at any meeting of the Unit Owners shall be deemed such waiver.

#### IV

#### MANAGEMENT COMMITTEE

4.1 Purpose and Powers. The business, property and affairs of the Condominium Project shall be managed and governed by the Management Committee pursuant to paragraph 18 of Section III of the Declaration. The Management Committee, as it deems

SECTION FOUR

advisable, may enter into such management agreement or agreements with a third person, firm, or corporation to act as the Manager of the Project.

4.2 Regular Meetings. A regular annual meeting of the Management Committee shall be held immediately after the adjournment of each annual Unit Owner's meeting. Regular meetings, other than the annual meeting, shall or may be held at regular intervals at such places and at such times as the Chairman of the Management Committee may from time to time designate.

4.3 Special Meetings. Special meetings of the Management Committee shall be held whenever called by the Chairman, the Vice Chairman, or by any two or more members thereof. By unanimous consent of the Management Committee, special meetings may be held without call or notice at any time or place.

4.4 Quorum. A quorum for the transaction of business at any meeting of the Management Committee shall consist of a majority of the Management Committee then in office.

4.5 Compensation. Members of the Management Committee, as such, shall not receive any stated salary or compensation; provided that nothing herein contained shall be construed to preclude any member thereof from serving the Project in any other capacity and receiving compensation therefor.

4.6 Waiver of Notice. Before or at any meeting of the Management Committee, any member thereof, may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Management Committee at any meeting thereof shall be waiver of notice by him of the time and place thereof.

4.7 Adjournment. The Management Committee may adjourn any meeting from day to day or for such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty (30) days.

4.8 Fidelity Bonds. The Management Committee may, in its discretion, require that all officers and employees of the Management Committee handling or responsible for funds shall require adequate fidelity bonds. The premium on such fidelity bonds shall be paid by the Management Committee.

V

OFFICERS

5.1 Designation and Election. The principal officers of the Management Committee shall be a Chairman, a Vice Chairman, a Secretary, and a Treasurer, all of whom shall be elected by and from the Management Committee. The Management Committee may appoint an assistant secretary and an assistant treasurer and such other officers as it in its judgment may be necessary or desirable. Except as otherwise mentioned in Paragraph 18 of the

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Declaration, such election or appointment shall regularly take place at the first meeting of the Management Committee immediately following the annual meeting of the Unit Owners; provided, however, that elections of officers may be held at any other meeting of the Management Committee.

5.2 Other Officers. The Management Committee may appoint such other officers, in addition to the officers hereinabove expressly named, as it shall deem necessary, who shall have authority to perform such duties as may be prescribed from time to time by the Management Committee.

5.3 Removal of Officers and Agents. All officers and agents shall be subject to removal, with or without cause, at any time by the affirmative vote of the majority of the then members of the Management Committee.

5.4 Chairman. The Chairman shall be the chief executive of the Management Committee, and shall exercise general supervision over its property and affairs. He shall sign on behalf of the Condominium Project all instruments and contracts of material importance to its business, shall do and perform all acts and things which the Management Committee may require of him. He shall preside at all meetings of the Unit Owners and of the Management Committee. He shall have all of the general powers or duties which are normally vested in the office of the president of a corporation, including but not limited to the power to appoint committees from among the members from time to time as he may, in his discretion, decide is appropriate to assist in the conduct of the affairs of the Condominium Project.

5.5 Vice Chairman. The Vice Chairman shall take the place of the Chairman and perform his duties whenever the Chairman shall be absent, or unable to act. If neither the Chairman nor the Vice Chairman is able to act, the Management Committee shall appoint some other member thereof to do so on an interim basis. The Vice Chairman shall also perform such other duties as shall from time to time be prescribed by the Management Committee.

5.6 Secretary. The Secretary shall keep the minutes of all meetings of the Management Committee and of the Unit Owners; he shall have charge of the books and papers as the Management Committee may direct; and he shall in general, perform all the duties ordinarily incident to the office of the Secretary.

5.7 Treasurer. The Treasurer shall have the responsibility for the funds of the Management Committee and shall be responsible for keeping full and accurate accounts of all receipts and of all disbursements in books belonging to the Management Committee. He shall be responsible for the deposit of all monies and all other valuable effects in the name, and to the credit of, the Management Committee in such depositaries as may be from time to time designated by the Management Committee.

5.8 Compensation. No compensation shall be paid to the officers for their services as officers. No remuneration shall be paid to an officer for services performed by him for the Management Committee in any other capacity, unless a resolution authorizing such remuneration shall have been unanimously adopted by the Management Committee before the services are undertaken.

VI

ACCOUNTING

6.1 Books and Accounts. The books and accounts of the Management Committee shall be kept under the direction of the Treasurer and in accordance with the reasonable standards of accounting procedures.

6.2 Report. At the close of each accounting year, the books and records of the Management Committee shall be reviewed by a person or firm approved by the Unit Owners. Report of such review shall be prepared and submitted to the Unit Owners at or before the annual meeting of the Unit Owners; provided, however, that a certified audit by a certified public accountant approved by the Unit Owners shall be made if at least 75 percent of the owners of undivided interest in the Common Areas determine so to do.

6.3 Inspection of Books. Financial reports, such as are required to be furnished, shall be available at the principal office of the Management Committee or the Manager for inspection at reasonable times by any Unit Owner.

VII

BUILDING RULES

The Management Committee shall have the power to adopt and establish, by resolution, such building, management and operational rules and regulations as it may deem necessary for the maintenance, operation, management and control of the Condominium Project, and it may from time to time by resolution, alter, amend, and repeal such rules and regulations. Unit Owners shall at all times obey such rules and regulations and use their best efforts to see that they are faithfully observed by their Lessees and the persons over whom they have or may exercise control or supervision, it being declared that such rules and regulations shall be binding upon all Unit Owners of the Project. Provisions of the Act pertaining to rules and regulations are incorporated herein by reference and shall be deemed a part thereof.

VIII

AMENDMENT OF BY-LAWS

These By-Laws may be amended at any duly constituted meeting of the Unit Owners called for that purpose of the affirmative vote of at least two-thirds of the ownership in the Common Areas.

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EXHIBIT "A"

MOUNTAIN VIEW PARK

<u>Building</u>	<u>Unit No.</u>	<u>Approximate Square Feet</u>	<u>Par Value (points)</u>	<u>Appurtenant Undivided Interest in Common Areas</u>
A	1	1260	78	.98%
	2	737	51	.64%
	3	1014	62	.77%
	4	1115	70	.87%
	5	1108	70	.87%
	6	1108	70	.87%
	7	1108	70	.87%
	8	1108	70	.87%
	9	1115	70	.87%
	10	737	51	.64%
B	11	1014	62	.77%
	12	1260	78	.98%
	13	1260	78	.98%
	14	737	51	.64%
	15	1014	62	.77%
	16	1115	70	.87%
	17	1108	70	.87%
	18	1108	70	.87%
	19	1108	70	.87%
	20	1108	70	.87%
C	21	1115	70	.87%
	22	737	51	.64%
	23	1014	62	.77%
	24	1260	78	.98%
	25	1260	78	.98%
	26	737	51	.64%
	27	1014	62	.77%
	28	1115	70	.87%
	29	1108	70	.87%
	30	1108	70	.87%
D	31	1108	70	.87%
	32	1108	70	.87%
	33	1115	70	.87%
	34	737	51	.64%
	35	1014	62	.77%
	36	1260	78	.98%
	37	1260	78	.98%
	38	737	51	.64%
	39	1014	62	.77%
	40	1115	70	.87%
E	41	1108	70	.87%
	42	1108	70	.87%
	43	1108	70	.87%
	44	1108	70	.87%
	45	1115	70	.87%
	46	737	51	.64%
	47	1014	62	.77%
	48	1260	78	.98%
	49	1260	78	.98%
	50	737	51	.64%
	51	1014	62	.77%

<u>Building</u>	<u>Unit No.</u>	<u>Square Feet</u>	<u>Par Value (points)</u>	<u>Appurtenant Undivided Interest in Common Areas</u>
	E 52	1115	70	.87%
	53	1108	70	.87%
	54	1108	70	.87%
	55	1108	70	.87%
	56	1108	70	.87%
	57	1115	70	.87%
	58	737	51	.64%
	59	1014	62	.77%
	60	1260	78	.98%
F	61	1260	78	.98%
	62	737	51	.64%
	63	1014	62	.77%
	64	1115	70	.87%
	65	1108	70	.87%
	66	1108	70	.87%
	67	1108	70	.87%
	68	1108	70	.87%
	69	1115	70	.87%
	70	737	51	.64%
	71	1014	62	.77%
	72	1260	78	.98%
G	73	1260	78	.98%
	74	737	51	.64%
	75	1014	62	.77%
	76	1115	70	.87%
	77	1108	70	.87%
	78	1108	70	.87%
	79	1108	70	.87%
	80	1108	70	.87%
	81	1115	70	.87%
	82	737	51	.64%
	83	1014	62	.77%
	84	1260	78	.98%
H	85	1260	78	.98%
	86	737	51	.64%
	87	1014	62	.77%
	88	1115	70	.87%
	89	1108	70	.87%
	90	1108	70	.87%
	91	1108	70	.87%
	92	1108	70	.87%
	93	1115	70	.87%
	94	737	51	.64%
	95	1014	62	.77%
	96	1260	78	.98%
	97	1260	78	.98%
	98	737	51	.64%
	99	1014	62	.77%
	100	1115	70	.87%
	101	1108	70	.87%
	102	1108	70	.87%
	103	1108	70	.87%
	104	1108	70	.87%
	105	1115	70	.87%
	106	737	51	.64%

<u>Building</u>	<u>Unit No.</u>	<u>Square Feet</u>	<u>Par Value (points)</u>	<u>Appurtenant Undivided Interest in Common Areas</u>
H	107	1014	62	.77%
	108	1260	78	.98%
K	109	1260	78	.98%
	110	737	51	.64%
	111	1014	62	.77%
	112	1115	70	.87%
	113	1108	70	.87%
	114	1108	70	.87%
	115	1108	70	.87%
	116	1108	70	.87%
	117	1115	70	.87%
	118	737	51	.64%
	119	1014	62	.77%
	120	1260	78	.98%
				100%

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CONSENT OF MORTGAGEE

First Security Bank of Utah, a national banking and fiduciary corporation, hereby consents, acknowledges and confirms as follows:

1. That it is a Mortgagee (as defined in the Declaration to which this Consent is attached) affecting the real property described in Article II of the Declaration of Condominium of Mountain View Park (Phase No. 1); and
2. That the real property described in said Article II of the Declaration is being developed by H & W Venture, a Utah General Partnership, as Mountain View Park Condominium Project, Phase No. 1; that the interests of the undersigned as a Mortgagee is and shall be subject to all of the terms and conditions as set forth in the said Declaration and the related Record of Survey Map, and further that the aforesaid Declaration and Record of Survey Map shall take effect upon recording.

DATED this 16th day of March, 1977.

FIRST SECURITY BANK OF UTAH, N. A.

By Norval H. Lambert  
Its Vice President

ATTEST:

STATE OF UTAH )  
: ss.  
County of Salt Lake )

On this 16th day of March, 1977, personally appeared before me Norval H. Lambert and Leonard H. Keitz, who being by me duly sworn, did say that they are the Vice Presidents and Secretary, respectively, of First Security Bank of Utah, N.A., a national banking and fiduciary corporation, and that the foregoing instrument was signed by them in behalf of said Corporation by authority of a resolution of its Board of Directors and the said Norval H. Lambert and Leonard H. Keitz, each duly acknowledged to me that the said Corporation executed the same and that the seal affixed is the seal of said Corporation.

NOTARY PUBLIC  
Residing at Salt Lake City, Utah

My Commission Expires:

1-21-81

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