CARVEL MATTSSON

952 EAST GATE ROAD

SUC UT 84117

AMENDMENT TO THE DECLARATION OF CONDOMINIUM OF

THREE FOUNTAINS EAST, PHASE ONE AND

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THREE FOUNTAINS EAST, PHASE TWO AND THE BY-LAWS

THIS AMENDMENT TO THE DECLARATION OF CONDOMINIUM OF THREE FOUNTAINS EAST, PHASE ONE, and THREE FOUNTAINS EAST, PHASE TWO, and the BY-LAWS is made by the Association of Unit Owners (the Association) of Three Fountains East Condominium Project (the Project) pursuant to a vote of the Association at a special meeting thereof duly called and convened in accordance with the By-Laws held on the __9th day of __April____, 1979, at which Unit Owners owning 2/3 of the undivided interests of the Common Areas and Facilities of the Project, either present in person or represented by proxy, voted to adopt the Amendment contained herein.

- A. Original Phase I Declaration. The Declaration of Condominium of Three Fountains East, Phase One, was duly executed and acknowledged by Richard Prows, Inc., a Utah corporation, as Declarant, and recorded in the Official Records of Salt Lake County, on October 20, 1970, as Entry No. 2354950 in Book 2909, at Page 632 ("Phase One Declaration").
- B. Original Phase II Declaration. The Declaration of Condominium of Three Fountains East, Phase Two, was duly executed and acknowledged by said Richard Prows, Inc., and recorded in the Official Records of Salt Lake County, Utah, on October 21, 1971, as Entry No. 2416681 in Book 3009, at Page 74 ("Phase Two Declaration"). Phase One Declaration and the Phase Two Declarations are collectively referred to herein as "the Declarations".
- C. <u>Survey Maps</u>. Concurrently with the filing for record of each of the Declarations, there was filed the related Record of Survey Map.
- D. Right to Amend. By the provisions of Paragraph 22 of Phase One Declaration and Paragraph 23 of Phase Two

Declaration, the Unit Owners in the Project have the right to amend the Declarations upon approval or consent of Unit Owners representing not less than 2/3 of the undivided interest in the Common Areas and Facilities of the Project.

- E. <u>Instrument to Consolidate Phases</u>. By an instrument headed "Amendment to the Declaration of Condominium of Three Fountains East, Phase One and Phase Two" duly executed and acknowledged by said Richard Prows, Inc., and recorded in the Official Records of Salt Lake County, Utah, on February 3, 1972 as Entry No. 2435456, in Book 3039 at Page 200, the Project which was developed in two phases was declared to constitute but one condominium project as contemplated in Paragraph 6 of the Phase One Declaration.
- F. <u>Definitions</u>. The definitions of certain word or words contained herein, unless otherwise indicated, shall be the same as those defined in the Declarations.

NOW, THEREFORE, for and in consideration of the premises and the benefits to be derived by the Project and the present Unit Owners therein, the Association does hereby amend the Declarations by deleting or adding or changing as follows:

Section 8 of the Declarations. <u>Delete portion of first paragraph</u> in its entirety:

"8. <u>Management</u>. The Business, Property and Affairs of Three Fountains East Condominium (Phase One and Phase Two) shall be managed by Management Committee consisting of not less than three nor more than seven members who have ownership in units in the Project to be selected as provided in the By-Laws. Such Management Committee shall have all the powers, duties and responsibilities as are now or may hereafter be provided by the Act, this Declaration and/or any amendments subsequently filed thereto; provided, however, that the Management Committee may engage the services of a Manager and fix and pay a reasonable fee or compensation therefor".

Substitute in lieu thereof: "The business, property and affairs

of the Project shall be managed by a Management Committee which shall consist of seven members who shall be elected as provided in the By-Laws and who own Units or shares or interests in Units in the Project. The Management Committee shall have all the powers, duties and responsibilities as are now or may hereafter be provided by the Act, the Declaration, the By-Laws and/or any amendments subsequently made thereto, provided, however, that the Management Committee may engage the services of a Manager and fix and to pay a reasonable fee or compensation therefor".

Section 8 of the Declarations. Delete second paragraph in its entirety:

"The Management Committee shall be responsible for the control, operation and management of the Condominium in accordance with the provisions of the Act, this Declaration and such administrative, management and operational rules, and regulations as it may adopt from time to time as herein provided, and all agreements and determinations lawfully made and entered into by the Committee".

Substitute in lieu thereof: "The Management Committee shall be responsible for the control, operation and management of the Project in accordance with the provisions of the Act, this Declaration, the By-Laws, and such administrative, management and operational rules and regulations as it may adopt from time to time as herein provided, and all agreements and determinations lawfully made and entered into by the Committee".

Section 10 of the Declarations. <u>Delete second paragraph in its entirety:</u>

"In assessing Unit Owners or requiring them to pay for the building improvements following the execution of the Declaration, it is agreed that no assessment for a single improvement in the nature of capital expenditure exceeding the sum of \$2,500.00 in costs shall be made without the same having been first approved by a vote of owners of 75 percent, or more, of the undivided interests in the Common Areas and Facilities. The foregoing sentence shall not apply in connection with the re-

placement or reconstruction occasioned by fire, or other casualty".

Substitute in lieu thereof:

"In assessing Unit Owners or requiring them to pay for the building improvements under the Declaration, it is agreed that no assessment for a single improvement in the nature of capital expenditure exceeding the sum of \$5,000.00 in costs shall be made without the same having been first approved by a vote of two-thirds (2/3) of the undivided ownership interests in the Common Areas and Facilities represented at a special or annual meeting of the Unit Owners by the Owners thereof in person or by proxies and, therefore, which are entitled to be voted thereat, provided, that a quorum as defined in the By-Laws is present and represented at such meeting. The foregoing sentence shall not apply in connection with replacement or reconstruction occasioned by fire or other casualty".

Section 14 of the Declarations. Delete in its entirety the first paragraph:

"Each unit owner shall pay the Management Committee his allocated portion of the cash requirement deemed necessary by the Management Committee to manage and operate the condominium Project, including the recreational facilities thereof upon the terms, at the times, and in the manner herein provided without any deduction on account of set-off or claim which the owner may have against the Management Committee, and if the owner shall fail to pay any installment within one month of the time when the same becomes due, the Owner shall pay interest thereon at the rate of 10 percent per annum from the date when such installment shall become due to the date of the payment thereof".

Substitute in lieu thereof:

"Each Unit Owner shall pay the Management Committee his allocated portion of the cash requirement deemed necessary by the Management Committee to manage and operate the Concominium Project, including but not by way of limitation, the recreational facilities thereof, upon the terms, at the times, and in the manner herein provided without any deduction on account of set-off or claim which the owner may have against the Management Committee, and if the owner shall fail to pay any installment within one month after the time when the same shall become due, such owner shall pay interest on each delinquent installment at the rate of 1½% per month from due date, and in addition thereto shall pay a late payment service charge equal to 10% of each installment which is delinquent".

Section 14 of the Declarations. <u>Delete in its entirety a portion</u> of the sixth paragraph of the <u>Declarations</u>:

"Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the owner against whom the same are assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. The amount of any assessment, whether regular or special, assessed to the owner of any condominium plus interest at 10% per annum, and costs, including reasonable attorney's fees, shall become a lien upon such unit upon recordation of a notice of assessment as provided by the Act".

Substitute in lieu thereof:

"Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the owner against whom the same are assessed at the time the assessment is made and shall be collectible as such. Suit to recover a money judgment for unpaid Common Expenses together with interest, late payment service charge, court costs and reasonable attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same. The amount of any assessment, whether regular or special, assessed to the owner of any Unit plus said interest, late payment service charge, court costs, and reasonable attorney's fees, shall become a lien upon such Unit upon recordation of a notice of assessment as provided by the Act".

Section 19 of the Declarations. <u>Delete portion thereof</u>:
"The Management Committee shall have the power to adopt and establish by resolution, such building management, and operational rules as it may deem necessary for the maintenance, operation, management and control of the project the Committee may, from time to time by resolution, alter, amend and repeal such rules".

Substitute in lieu thereof:

"The Management Committee shall have the power to adopt and establish by resolution, such building, management, and operational rules as it may deem necessary for the maintenance, operation, management, and control of the Project. The Committee may, from time to time by resolution alter, amend and repeal such rules".

Section 22 of the Declarations. <u>Delete in its entirety</u>:
"In addition to the amendment provisions provided in Paragraph 6 above, the Unit Owners shall have the right to amend this Declaration and/or the Map upon the approval and consent of Unit Owners representing not less than two-thirds (2/3) of the undivided interest in the Common Areas and Facilities, which approval and consent shall be by duly recorded instruments".

Substitute in lieu thereof:

may be amended by a two-thirds (2/3) vote of the ownership interests in the Common Areas and Facilities represented at a meeting, either annual or special, including those represented at such meeting by the Owners thereof in person and those represented by proxies. A quorum for the purposes of this Section only shall be 60% of the total of the undivided ownership interests in the Common Areas and Facilities. As a condition to any amendment, written notice of the proposed amendment shall be given to all Unit Owners at least 15 days in advance of the meeting, whether annual or special at which the proposed amendment is to be considered, which notice shall also state the place, date and time of the meeting."

AMENDMENT OF THE BY-LAWS

The Unit Owners of the Project do hereby agree to, and do amend the By-Laws attached to the Declarations as Exhibit "C" by deleting, or adding or changing as follows:

Article III, Section 2. Delete in its entirety:

"2. Annual Meetings. The first annual meeting of the Unit Owners shall be held on the first Tuesday of May, 1971. Thereafter, the annual meeting shall be held on such day of each succeeding year; provided, however, that whenever such date falls on a legal holiday, the meeting shall be held on the next succeeding business day, and further provided that the Management Committee may by resolution fix the date of the annual meeting on such date or at such other place as the Management Committee may deem appropriate".

Substitute in lieu thereof:

"2. Annual Meetings. The annual meeting of the Unit Owners shall be held at 7:00 P.M. on the first Tuesday in April of each year unless the Management Committee fixes some other time and date for such meeting. The place of meeting shall be at a location in Salt Lake County, Utah. The date, time, place and purposes of the meeting shall be specified in the notice of the meeting given to the Unit Owners."

Article III, Section 3. Delete in its entirety:

"3. Special Meetings. Special meetings of the Unit Owners may be called at any time by written notice signed by a majority of the Management Committee, or by owners having thirty percent of the total votes, delivered not less than ten days prior to the date fixed for said meeting. Such meeting shall be held on the project or such other place as the Management Committee may specify and the notice thereof shall state the date, time and matters to be considered".

Substitute in lieu thereof:

"3. Special Meetings. Special meetings of the Unit Owners may be called by the President, by a majority of the Management Committee, or by Unit Owners cumulatively holding at least thirty percent of the undivided ownership in the Common Areas. At least fifteen days before the day set for a special meeting written notice such as that described in the immediately preceding paragraph shall be given to each Unit Owner by depositing in his mail slot or by mailing the same, postage prepaid, to Unit Owners at their respective last-known addresses, which notice shall state the date, time, place and matters to be considered thereat".

Article III, Section 4. Delete in its entirety:

"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 or the Manager 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 from time to time by notice in writing to the Management Committee or Manager".

Substitute in lieu thereof:

"4. Notices. Any notice permitted or required to be given as provided herein shall be delivered either personally, or by mailing the same, postage prepaid, to the Unit Owners or by placing the same in their respective mail boxes or mail slots. If delivery is by mail, it shall be deemed to have been delivered 48 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 or to the Manager for the purpose of service of such notice or to the Unit of such person if no address has been given to it. Such address may be changed from time to time by notice in writing to the Management Committee or the Manager. Notice requirement set forth in this Section shall apply to both annual and special meetings of Unit Owners.

"No notice of any Unit Owners meetings shall be required if a waiver of such notice is signed by all of the Unit Owners. Whenever all the Unit Owners meet in person or by proxy such meeting shall be valid for all purposes".

Article III, Section 5. Delete in its entirety:

"5. Quorum. At any meeting of the Unit Owners, the owners of more than fifty percent in the aggregate in interest of the undivided ownership of Common Areas and Facilities 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, unless 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".

Substitute in Lieu thereof:

"5. Quorum. A quorum for the transaction of business at an Owners' meeting shall consist of more than fifty percent. ôf all the undivided ownership interest in the Common Areas, except where by express provisions of the Act, this Declaration or the By-Laws a greater amount is required, in which event a quorum shall be the percentage ownership interest required in order to act on such matter. In the event a quorum is not present at an Owners' meeting, whether regular or special, the meeting may be adjourned and rescheduled for a time no earlier than 48 hours, and no later than 30 days after the time set for the original meeting. No notice of such rescheduled meeting shall be required."

In ascertaining whether or not the required quorum is present at any meeting of Unit Owners for the purpose of electing members to the Management Committee or taking any

action or making any decision required or permitted to be made by the Unit Owners pursuant to the Act, the Declaration(s) and the By-Laws, such quorum shall be determined by ascertaining the total at the meeting of the undivided ownership interests in the Common Areas and Facilities, including those represented by the Owners thereof in person and those represented by proxies, and which, therefore, are entitled to be voted at said meeting."

Article III. Section 6. Delete in its entirety:

Voting. When a quorum, as provided in the Utah · Condominium Ownership Act is present at any meeting, the vote of Unit Owners representing at least fifty-one (51%) percent, or more, of the undivided ownership of Common Areas and Facilities, 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 provision of the statutes, or these bylaws a different vote is required, in which case such express provision shall govern and control the decision of such question. All wotes 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 to said annual meeting. Proxies for special Unit Owners meetings must be of record with the Secretary at least two days prior to said special meeting".

Substitute in Lieu Thereof:

"6. <u>Voting</u>. The total number of votes of the Unit Owners shall be one hundred (100), and each Unit shall be entitled to the number, fraction or percentage of votes proportionate to the undivided ownership in the Common Areas assigned to such Unit in the Declarations. Since a Unit Owner may be more than one person, if only one of such persons is present at a meeting of the Unit Owners that person shall be entitled to cast the votes appertaining to that Unit. But if more than one of such persons is present, the vote appertaining to that Unit shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any

one of them purports to cast the vote appertaining to that Unit without protest being made forthwith by any of the others to the person presiding over the meeting. Since a person need not be a natural person, the word "person" shall be deemed for the purposes of this Section to include, with out limitation, any natural person having authority to execute deeds on behalf of any person, excluding natural persons, which is, either alone or in conjunction with another person or persons, a Unit Owner. Except where a greater number, fraction or percentage is required by the Act, the Declaration(s) or these By-Laws, a vote of a majority of the undivided ownership interests in the Common Areas and Facilities represented by the Owners thereof in person or by proxies at a meeting of the Unit Owners and, therefore, entitled to be voted thereat, shall be sufficient to elect members to the Management Committee or to make decisions or to take such other actions or steps which may be taken or are required to be taken by the Unit Owners. All votes may be cast either in person or by All proxies shall be in writing and shall be delivered to the Secretary at least two (2) days prior to the meeting at which they are to be used. Proxies may be revoked by the grantor(s) thereof if such person(s) personally attend(s) the meeting".

Article IV, Section 1. Delete in its entirety:

"1. Purpose and Powers. The business, property and affairs of the Condominium shall be managed and governed by its Management Committee, hereinafter referred to as the "Management Committee" or "The Committee", consisting of not less than three nor more than seven members as the Unit Owners at a lawfully convened meeting may from time to time determine; provided, however, that the Declarant shall act as the Management Committee until the completion of, and the sale of, all the Units in the Final Phase of the Project. The Management Committee may enter into such management agreement or agreements with a third party or persons or corporations as it may deem advisable".

Substitute in lieu thereof:

"1. Purpose and Powers. The business, property and affairs of the Project shall be managed and governed by the

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Management Committee consisting of seven members. The Management Committee may enter into such management agreement with a third person or persons or corporations as it may deem advisable.".

Article IV. Section 2. Delete in its entirety:

Election and Vacancy. Subject to the provisions of the next preceding paragraph, at the first special meeting of the Unit Owners called for that and any other purposes, an election of the Management Committee shall be held for the election of not less than three members which shall constitute the initial management committee. The term of the members of the Management Committee shall be until the next annual meeting of the Unit Owners, or until their successors are Their successors shall be elected at the first duly elected. annual or special meeting of the Unit Owners. A new Management Committee shall be elected by the Unit Owners at each regular bi-annual meeting thereafter and shall hold office for a term of two years and until a successor shall be elected. The number composing the Management Committee may be altered from time to time by the action of a majority of the Unit Owners at any regular or special meeting called for such purpose. In the event of any increase in the number of members constituting the Management Committee in advance of the annual meeting each additional member shall be elected by the then Management Committee and hold office until his successor is elected".

Substitute in lieu thereof:

"2. Election, Term and Vacancy. It is felt by some people that a doubt exists with respect to the term of office of the incumbent members of the Management Committee. Accordingly, beginning with the annual meeting of the Unit Owners in the year 1979, the terms of office of four members of the Management Committee shall be a period of two years and three members of the Management Committee shall be a period of one year. At the expiration of the term of each member of the Management Committee thereafter, a successor shall be elected to serve for a term of two years. At least thirty (30) days prior to any annual meeting of the Unit Owners, the Management Committee shall select from the

Unit Owners a nominating committee of not less than five members who shall recommend to the annual meeting at least one nominee for each position on the Management Committee to be filled at the next annual meeting. Nominations for positions on the Management Committee may also be made by petition filed with the Secretary of the Management Committee at least ten (10) days prior to the annual meeting of the Unit Owners, which petition shall be signed by twenty-five or more Unit Owners and signed by the nominee named therein indicating his willingness to serve as a member of the Management Committee, if elected. Members of the Management Committee shall be required to be Unit Owners. Members of the Management Committee shall serve and shall hold office until their respective successors are elected, or until their death, resignation or removal; provided, that if any member ceases to be a Unit Owner, his membership on the Management Committee shall thereupon terminate. Any member of the Management Committee who fails to attend one of four consecutive Management Committee meetings or fails to attend at least twentyfive percent of the Management Committee meetings held during any calendar year shall forfeit his membership on the Management Committee. Any member of the Management Committee may resign at any time by giving written notice to the President of the Management Committee, or the remaining Management Committee members. Any member of the Management Committee may be removed from membership on such Committee by a two-thirds majority vote of the ownership interests in the Common Areas and Facilities which are represented at a meeting of the Unit Owners by either the Owners thereof in person or by proxies, provided a quorum is present, either in person or by proxy or both."

Article VI, Section 2. Delete in its entirety:

"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% of the Owners of undivided interest in the Common Areas and Facilities determine so to do".

Substitute in lieu thereof:

"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 Management Committee. Report of such review shall be prepared and submitted to the Unit Owners at or before the annual meeting of the Unit Owners."

Article VII. Delete a portion thereof:

"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 Three Fountains Professional Building Condominium Project, and the Management Committee may from time to time, by resolution, alter, amend, and repeal such rules and regulations".

Substitute in lieu thereof:

"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 Three Fountains East Condominium Project. Phase One and Phase Two, and the Management Committee may from time to time, by resolution, alter, amend, and repeal such rules and regulations".

Article VIII. Delete in its entirety:

"These By-Laws may be altered, amended, or repealed, at any regular meeting of the Unit Owners or at any special meeting of the Unit Owners at which a quorum is present or represented by a vote of Unit Owners, representing at least two-thirds (2/3) of the ownership in the Common Areas and Facilities, having voting power and acting in person or represented by proxy. Provided, that as a condition to any such alteration, amendment or repeal, written notice of the

proposed operation, amendment or repeal shall be given to all Unit Owners, at least ten days in advance in the case of a regular meeting and in the written notice transmitted in the case of a special meeting".

Substitute in lieu thereof:

"VIII

AMENDMENT OF THE BY-LAWS

"These By-Laws may be altered, amended or repealed at any special or annual meeting of the Unit Owners at which a quorum as provided in Article III, Section 5 (as herein amended) is present by two-thirds vote of the Unit Owners entitled to vote (based on percentage ownership in the Common Areas) present in person or represented by proxy. Written notice of the proposed alteration, amendment or repeal shall be given to all Unit Owners at least 15 days prior to any special or annual meeting stating the place, date, time and the nature of the proposed amendment".

ADD the following as Article X:

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CONSENT EQUIVALENT TO VOTE

Any action required or permitted by the Declarations of Condominium or the By-Laws or by law at annual or special meeting of the Unit Owners may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken is signed and acknowledged before a Notary Public by the Owners of undivided interests in the Common Areas and Facilities amounting to a total of not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all ownership interests entitled to vote were present or represented and voted. Prompt notice of the taking of such action without a meeting by less than unanimous written consent

shall be given to Unit Owners who have not consented in writing".

The Officers of the Management Committee, known as the Eastgate Management Committee, do hereby certify that the foregoing Amendment to the Declarations and By-Laws was duly adopted by a vote of two-thirds (2/3) or more of the total undivided ownership interests in the Common Areas and Facilities of the Project, being Three Fountains East Condominium Project, represented in person or by proxies, at a special meeting duly called and convened, at which a quorum was present.

This Amendment is executed this <u>loth</u> day of <u>April</u>.

1979, by the Management Committee of the Project, in said Management Committee's capacity as agent for and representative of the Association of Unit Owners of the Project.

THE MANAGEMENT COMMITTEE OF THREE FOUNTAINS EAST, Phase One and Phase Two, CONDOMINIUM PROJECT

Reed Pope

Its President

ATTEST:

Waried H Michelson

Its Secretary

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

On this <u>loth</u> day of <u>April</u>, 1978, personally

appeared before me REED POPE and DAVID H. MICHELSEN who being by me duly sworn, did say that they are the President and the Secretary respectively, of THE MANAGEMENT COMMITTEE OF Three Fountains East Phase One and Phase Two CONDOMINIUM PROJECT, and that the foregoing Amendment to the Declaration of Condominium of Three Fountains East, Phase One, and Three Fountains East, Phase Two, and to the By-Laws was signed on behalf of said Committee by authority of either the Declaration of said Condominium Project or the Utah Condominium Ownership Act, and said REED POPE and DAVID H. MICHELSEN _duly acknowledged to me that said Management Committee executed said Amendment in its capacity as agent for, and representative of, the Association of Unit Owners of said Condominium Project.



NOTARY PUBLIC

Residing at: 952 Eastgate Road

Salt Lake City, Utah 84117.

My Commission Expires:

May 8, 1981.