

HOMESOWNERS ASSOC.
2785 West 9000 South
West Jordan, Ut. 84084

3399870

A DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
WOOD COVE PARK

This declaration is made on the date hereinafter set forth by Orton Estates, Inc., hereinafter referred to as "Declarant".

W I T N E S S E T H

WHEREAS Declarant is the owner of certain property in West Jordan, County of Salt Lake, State of Utah, which is more particularly described as follows:

See, Exhibit "A" which is attached hereto and incorporated herein by this reference.

NOW, THEREFORE, Declarant hereby declares that all the properties described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each property owner thereof.

ARTICLE I

DEFINITIONS

SECTION 1. "Association" shall mean and refer to the Wood Cove Park Homeowners Association, a Utah nonprofit corporation, its successors and assigns.

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SECTION 2. "Articles" shall mean the Articles of Incorporation of the Association as said Articles are amended from time to time.

SECTION 3. "Board" shall mean the Board of Directors of the Association.

SECTION 4. "By-laws" shall mean the by-laws of the Association as such by-laws may be amended from time to time.

SECTION 5. "Owner" or "Owners" shall mean and refer to the record owner whether one or more persons, or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interests merely as security for performance of an obligation.

SECTION 6. "Properties" shall mean and refer to that certain real property herein before described and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 7. "Common Area" shall mean all real property including improvements thereto owned by the Association for the common use and enjoyment of the owners.

The Common Area to be conveyed to the Association prior to or concurrently with the first conveyance of a lot in the project property to an owner other than a Declarant is described as follows:

See, Exhibits "B," "C," and "D" which are attached hereto and incorporated herein by this reference.

SECTION 8. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the common area.

SECTION 9. "Declarant" shall mean and refer to Orton Estates, Inc., a Utah Corporation, its successors or assigns, if such successors or assigns should acquire more than one developed lot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

SECTION 1. Owners' easements of enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- A. The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- B. The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;
- C. The right of the Association to dedicate or transfer all or any part of the Common Area to any

public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.

- D. The right of the Association, in accordance with its Articles and By-laws to borrow money for the purpose of improving the Common Area and recreational areas therein and to mortgage the property contained in the Common Area for such purpose. The rights of the mortgagee in said property shall be subordinate to the rights of the owners hereunder.

SECTION 2. Delegation of Use. Any Owner may delegate in accordance with the By-laws his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property, and to any of his tenants who reside thereon under a leasehold interest for a term of one month or more, and to his guests, subject, however, to the By-laws and the Association Rules and Regulations. Such Owners shall notify the secretary in writing of the name of the person(s) to whom the rights are delegated and of the relationship to the Owner of such person(s). The rights and privileges of such

person(s) are subject to the suspension in the same manner as the members of the Association as more fully provided in this Declaration.

SECTION 3. Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Lot and such portion or portions of the Common Area adjacent thereto or as between adjacent Lots due to the unwillful placement or settling or shifting of the improvements constructed, reconstructed or altered thereon in accordance with the terms of this Declaration. Said easements of encroachment shall be valid so long as they exist and the rights and obligations of Owners shall not be altered in any way by said encroachments' settling or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful act or acts of said Owner or Owners. In the event a structure on any lot is partially or totally destroyed, and then repaired or rebuilt, the Owners of each lot agree that minor encroachments over adjoining Lots shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

SECTION 4. Drainage, Irrigation, and Utility Easement. Notwithstanding anything expressly or impliedly contained herein to the contrary, this Declaration shall be subject to all easements as shown on the recorded plat and to all easements hereto before or hereafter granted by the Declarant for the installation

and maintenance of utilities, irrigation, and drainage facilities that are necessary for the development of the property. The Association shall assume and perform all of the duties and obligations undertaken by Declarant in Salt Lake County respecting the use of ponds, streams, irrigation and drainage systems in and upon the property for flood control and irrigation purposes, and shall be entitled to enter into reasonable agreements with Salt Lake County or other municipal corporations, state or federal agencies whereby it agrees to use and maintain the ponds, irrigation, and drainage systems in and upon the property in connection with flood control or irrigation programs other than those of Salt Lake County or the Canal District and to make provisions for for the disposition of water in such ponds, irrigation and drainage systems.

SECTION 5. Sewer and Water Easement. The rights and duties of the Owners of the Lots within the property with respect to the sanitary sewers and water facilities shall be governed by the following:

- A. Wherever sanitary sewer connections or water house connections are installed within the property, which connections or any portion thereof lie in or upon Lots owned by other than Owners of the Lot served by such connections, the Owners of the Lot served by said connections shall have the right and are hereby granted an easement to the

full extent necessary therefore, to enter upon the Lots or to have their agent(s) enter upon the Lots containing the property in or upon which said connections or any portion thereof lie, to repair, replace and generally maintain said connections as and when that may be necessary.

- B. Whenever sanitary sewer house connections or water house connections are installed within the Properties, which connections serve more than one Lot, the Owner of each Lot served by said connections shall be entitled to full use and enjoyment of such portions of said connections as service his Lot.
- C. In the event of a dispute between Owners with respect to the repair or rebuilding of sanitary sewer house connections or water house connections or with respect to the sharing of the cost thereof, then upon written request of one of such Owners addressed to the Association, the matter shall be submitted to the Board of Directors who shall decide the dispute and make an assessment against any or all of the Owners involved, which assessment shall be collected and enforced in the manner provided by this Declaration.

SECTION 6. Common Area Easements. Easements for ingress and egress to and from the Common Areas are reserved as shown on the

recorded plat as filed in the Official Records of Salt Lake County. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with ingress or egress to the common areas. Easement areas of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except the duty for maintenance shall not include the responsibility for maintaining those improvements for which the Association is responsible, including, without limitation, sidewalks and paths installed upon the easements.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

SECTION 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

SECTION 2. The Association shall have two classes of voting membership:

Class A - Class A members shall be all Owners with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lots shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B - Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- A. When the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership,
- B. On June 18, 1984.

SECTION 3. Joint Owner Votes. The vote for each such Lot must be cast as a unit and fractional votes shall not be allowed. In the event that the joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose the right to vote on the matter in question. If any Owner or Owners cast a vote representing a certain Lot, it will be conclusively presumed for all purposes that either he, she or they were acting with the authority and consent of all other owners of the same lot. In the event that more than one vote is cast with respect to a particular Lot, none of the votes representing such Lot shall be counted and said votes shall be deemed void.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the

Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association.

1. Annual assessments or charges;
2. Landscaping maintenance assessments (herein "maintenance assessments") pursuant to Article VI hereof; and
3. Special assessments for capital improvements. Such assessments to be established and collected as hereinafter provided.

The annual, special and maintenance assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

SECTION 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

SECTION 3. Maximum Annual Assessment. Until January of the year immediately following the conveyance of the first Lot to an Owner the maximum annual assessment shall be \$400.00 per Lot, excluding maintenance assessments.

- A. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment, excluding maintenance assessments, may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership.
- B. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment, excluding maintenance assessments, may be increased above five percent by a vote of two-thirds of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- C. The Board may fix the annual assessment, excluding maintenance assessments, at an amount not in excess of the maximum.
- D. The maximum assessment to any Owner may be increased by the maintenance assessment provided in Article VI hereof.

SECTION 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only for the purpose of defraying in whole or in part the cost of any construction, reconstruction repair, or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

SECTION 5. Notice of Quorum for any Action Authorized Under

Sections 3 and 4. Written notice of any meeting for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At such meeting called, the presence of members or of proxies entitled to cast 60 percent of all the votes of each class membership shall constitute a quorum. If the required quorum is not present another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

SECTION 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis. Maintenance assessments

pursuant to Article VI are excluded from the operation of this Section and may be assessed on a case by case basis.

SECTION 7. Date of Commencement of Annual Assessments and Maintenance Assessments. Due Dates. The annual assessments and maintenance assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board shall fix days in advance of each annual assessment period. The Board shall fix the maintenance assessments at the actual cost of maintenance. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board. The Board shall have the authority to require that annual assessments be paid monthly, quarterly, semi-annually or annually. The Association shall, upon demand and for reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as the status of assessments on a Lot is binding on the Association as of the date of its issuance.

SECTION 8. Effect of Non-payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate of six (6) percent per annum. The Association

may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his, her or their Lot.

SECTION 9. Subordination of the Lien to Mortgages. The lien of the assessments provided herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL COMMITTEE

SECTION 1. Committee Composition. The Architectural Control Committee shall consist of three (3) persons. The Declarant may, thereafter, appoint two (2) members to the Architectural Control Committee and the Board shall appoint the remaining member until such time as seventy-five (75) percent of the Lots of the project have been sold and closed escrow. Prior to the time that the Board is vested with the authority to appoint all members of the Architectural Control Committee, Declarant shall have the power to remove persons from the Committee, and the power to fill vacancies, provided however, that the Declarant shall have no

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such rights with respect to any position on the Architectural Control Committee with respect to which the Board has the authority to appoint. From and after such time as the Board acquires the right to appoint, remove and replace all members of the Architectural Control Committee, the Board may, at its discretion, from time to time, increase or decrease the size of the Architectural Control Committee: provided however, that in no event shall the size of the Architectural Control Committee be more than three (3) or less than five (5). Members of the Architectural Control Committee shall be appointed by and serve at the pleasure of the Board. Members appointed to the Architectural Control Committee by the Board shall be members of the Association. Members appointed to the Committee by the Declarant need not be members of the Association, nor shall they be required to be an Architect or to meet any other particular qualifications.

SECTION 2. Duties. It shall be the duty of the Architectural Control Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms hereof, to insure that the improvements constructed on the property by anyone other than the Declarant conform to the plans approved by the Architectural Control Committee rules and to carry out all other duties imposed on it by this Declaration.

SECTION 3. Plans and Approval. Excepting the interiors of dwelling units, no construction, no replacement, additions, or alteration of any building, structure, fence, drainage facility,

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common landscaping, or common planting shall be effected on any Lot, other than by the Declarant, until the plans, specifications, and plot plans showing the location and nature of such replacement, addition, alteration, or removal have been submitted to and approved in writing by the Architectural Control Committee: nor shall any exterior painting or decorative alterations be commenced until the Architectural Control Committee has approved the plans thereof, including the proposed color scheme, design thereof, and quality of materials to be used. All such plans, specifications, and plot plans shall be prepared by an Architect, Engineer, or Landscape Designer, or Landscape Architect, said person to be employed by the Owner making the application at his sole expense. Plans and resubmittals thereof shall be approved and or disapproved within thirty (30) days. Failure of the Architectural Control Committee to respond to submittal or resubmittal of plans as submitted or resubmitted.

SECTION 4. Meetings and Compensations. The Architectural Control Committee shall meet from time to time as necessary to perform its duties hereunder. The vote or written consent of the majority of the members at a meeting or otherwise shall constitute the act of the Committee unless the unanimous decision of the Committee is required by any provision of this Declaration. The Committee shall keep and maintain a written record of all action taken by it in such meetings or otherwise. Members of the Architectural Control Committee shall not receive any compensation for services rendered.

SECTION 5. Architectural Control Committee Rules. The Architectural Control Committee may, from time to time, in its sole and absolute discretion, adopt, amend, and repeal by unanimous vote or written consent, rules and regulations, to be known as "Architectural Control Committee Rules." Said rules shall interpret and implement this Declaration by setting forth standards and procedures for Architectural Control Committee review and the guidelines for architectural design, replacements and building, landscaping, color schemes, exterior finishes and materials and other similar features which are recommended for use within the project.

ARTICLE VI

GENERAL PROVISIONS

SECTION 1. Landscaping Maintenance Assessment. Trees, lawns, shrubs and other planting provided by the developer or the Owner on the Owner's Lot or on the parkways between the front lot line of the Owner's Lot and the curb and gutter shall be properly nurtured and maintained or replaced by the Owner at the Owner's sole expense. In the event the Owner fails to maintain the trees, lawns, shrubs, and other landscaping in the manner provided herein, the Association shall have the right, at the sole discretion of the Board, to provide the appropriate maintenance for said Owner's Lot and assess the Owner for the costs of such maintenance pursuant to the provision of Article IV hereof.

SECTION 2. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No clothes drying or storage of any articles which are unsightly in the opinion of the Architectural Control Committee will be permitted in carports, unless in enclosed areas designed for such purpose. No automobiles, trailers, boats, or other vehicles are to be stored on streets or front or side lots unless they are in running condition, properly licensed and are being regularly used.

SECTION 3. Slope or Drainage Control. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage channels or obstruct or retard the flow of water through drainage channels. The slope control areas of each lot and all improvements in them shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

SECTION 4. Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose and are restricted to the Owners premises

or on leash under handler's control. No animals, livestock or poultry of any kind shall be permitted on the Common Area, except those animals trained and provided for the aid of the handicapped, including, without limitation seeing-eye dogs, provided that any such animals must be on leash under handler's control.

SECTION 5. Enforcement. The Association, or any Owner shall have the right to enforce in proceedings at law or equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed the waiver of right to do so thereafter.

SECTION 6. Severability. Invalidation of any one of those covenants or restrictions by judgment or court order shall in no wise affect any provisions which shall remain in full force and effect.

SECTION 7. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall automatically extend for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety (90) percent of the lot owners, and thereafter by an instrument signed by not less than seventy

five (75) percent of the lot owners. Any amendment must be recorded.

SECTION 8. Annexation. Additional residential property in common area may be annexed to the properties with a consent of two-thirds of each class of members.

SECTION 9. FHA/VA Approval. As long as there is Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of common area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and sealed this 5 day of Jan month, 19 80.

Opton Estates, Inc.
Declarant

By: [Signature]

Vice - Pres.

EXHIBIT "A"

WOOD COVE PARK

Beginning at a point 528.00 feet South $0^{\circ} 18' 24''$ East and 1215.23 feet North $89^{\circ} 58' 10''$ East of the Northwest Corner of Section 33, Township 2 South, Range 1 West, Salt Lake Base & Meridian; and running thence South $5^{\circ} 20' 00''$ West 51.00 feet, thence South $12^{\circ} 15' 00''$ West 252.00 feet, thence along a 540.00 foot radius curve to the right 129.59 feet, central angle $13^{\circ} 45'$, chord 129.28, tangent 65.11, thence South $26^{\circ} 00' 00''$ West 161.36 feet, thence along a 540.00 foot radius curve to the left 169.65 feet, central angle 18° , chord 168.95, tangent 85.53, thence South $8^{\circ} 00' 00''$ West 211.00 feet, thence South $2^{\circ} 30' 00''$ West 79.45 feet, thence North $89^{\circ} 25' 47''$ East 439.62 feet, thence North $0^{\circ} 18' 24''$ West 132.00 feet, thence North $89^{\circ} 25' 47''$ East 1044.00 feet, thence North $0^{\circ} 05' 54''$ East 98.00 feet, thence North $89^{\circ} 58' 10''$ East 233.00 feet to the North quarter section line which is also the center line of 2700 West street, thence along said quarter section line North $0^{\circ} 04' 54''$ East 368.00 feet, thence South $89^{\circ} 58' 10''$ West 365.80 feet, thence North $0^{\circ} 05' 54''$ East 402.00 feet, thence South $89^{\circ} 58' 10''$ West 1098.00 feet to the point of beginning.

Containing 29.153 Acres

EXHIBIT "B"

RETENTION BASIN PARK (EAST)

Beginning at a point 1298.00 feet South $0^{\circ} 05' 54''$ West and 40.00 feet South $89^{\circ} 58' 10''$ West of the North Quarter Corner of Section 33, Township 2 South, Range 1 West, Salt Lake Base & Meridian; running thence South $89^{\circ} 58' 10''$ West 193.00 feet, thence North $0^{\circ} 05' 54''$ East 300.00 feet, thence North $89^{\circ} 58' 10''$ East 193.00 feet, thence South $0^{\circ} 05' 54''$ West 300.00 feet to the point of beginning. Containing 1.329 acres.

and;

EXHIBIT "C"

COMMON RECREATIONAL AREA (SOUTH)

Beginning at a point 945.16 feet South 0° 05' 54" West and 639.14 feet South 89° 58' 10" West of the North Quarter Corner of Section 33, Township 2 South, Range 1 West Salt Lake Base & Meridian; running thence South 17° 40' 00" West 120.71 feet, thence South 340.00 feet, thence South 89° 25' 47" West 238.98 feet, thence North 225.00 feet, thence North 50° 00' 00" West 188.88 feet, thence Northeasterly along the arc of a 390.00 foot radius curve to the right 444.24 feet (center angle of a 65° 15' 51" chord of 420.61 feet bearing North 74° 02' 05" East), thence South 73° 20' 00" East 16.70 feet to the point of beginning.

Containing 3.04 acres

EXHIBIT "D"

COMMON RECREATIONAL AREA (NORTH)

Beginning at a point 528.00 feet South 0° 05' 54" and 586.49 feet South 89° 58' 10" West of the North Quarter Corner of Section 33, Township 2 South, Range 1 West, Salt Lake Base & Meridian; running thence South 148.00 feet, thence West 240.00 feet, thence South 191.88 feet to a point on the arc of a curve, thence Southwesterly along the arc of a 450.00 foot radius curve to the Left 324.19 feet (center angle of 41° 16' 37" chord 317.22 feet bearing South 61° 51' 15" West), thence North 50° 00' 00" West 250.10 feet, thence North 16° 37' 25" West 22.23 feet, thence North 12° 15' 00" East 314.26 feet, thence North 89° 58' 10" East 650.98 feet to the point of beginning.

Containing 4.94 Acres

2800

UTAH TITLE & ASSET.
REF. DEP.
Sybil Robertson

FEB 14 3 03 PM '80

KATIE L. DIXON
RECORDER
SALT LAKE COUNTY,
UTAH

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