

WHEN RECORDED, MAIL TO:  
 C. Craig Liljenquist, Esq.  
 Prince, Yeates & Geldzahler  
 424 East Fifth South, 3rd Floor  
 Salt Lake City, UT 84111

Entry No. **250876**  
 REQUEST OF **UTAH TITLE & ABSTRACT**  
 FEE \$ 19.00 ALAN R. ...  
 RECORDED 5-2-86 at 2:18 P.M.

Space Above for Recorder's Use Only

Entry No. **250955**  
 REQUEST OF **UTAH TITLE & ABSTRACT**  
 FEE \$ 19.00 ALAN R. ...  
 RECORDED 5-2-86 at 3:30 P.M.

SECOND AMENDMENT  
 TO  
 AMENDED AND RESTATED

INDEXED: \_\_\_\_\_  
 GRANTOR: \_\_\_\_\_  
 GRANTEE: \_\_\_\_\_  
 RELEASED: \_\_\_\_\_  
 ABSTRACTED: \_\_\_\_\_  
 STAMPED: \_\_\_\_\_

CONDOMINIUM DECLARATION

FOR

POWDER POINTE CONDOMINIUMS  
 a Utah Condominium Project

THIS SECOND AMENDMENT TO AMENDED AND RESTATED  
 CONDOMINIUM DECLARATION is made and executed this 1st day of  
MAY, 1986, by POWDER POINTE CONDOMINIUMS OWNERS  
 ASSOCIATION, a Utah nonprofit corporation (hereinafter referred  
 to as the "Association").

R E C I T A L S

A. By that certain Declaration of Condominium for  
 Powder Pointe Condominiums, a Utah condominium project, dated  
 February 17, 1983, and recorded May 5, 1983, as Entry  
 No. 205362, in Book 259, at Page 404 of the Official Records of  
 Summit County, Utah (hereinafter referred to as the "Original  
 Declaration") and by that certain Record of Survey Map of  
 Powder Pointe Condominiums, a Utah condominium project, also  
 dated February 17, 1983, and also recorded May 5, 1983, as  
 Entry No. 205361, in the Official Records of said County  
 (hereinafter referred to as the "Original Record of Survey  
 Map"), the then sole owners of that certain real property more  
 particularly described on Exhibit "A" attached hereto and by  
 this reference made a part hereof (hereinafter referred to as  
 the "Property"), submitted the Property and all improvements  
 thereon (hereinafter referred to as the "Project") to the  
 provisions of the Utah Condominium Ownership Act.

B. By that certain Amended and Restated Condominium  
 Declaration for Powder Pointe Condominiums, a Utah condominium

project, recorded April 8, 1986, as Entry No. 249204, in Book 380, at Page 190, of the Official Records of said County (hereinafter referred to as the "Restated Declaration"), James L. Clayton, an individual and the then owner of the Property (hereinafter referred to as "Declarant"), totally amended, completely restated and entirely superseded the Original Declaration with the Restated Declaration.

C. By that certain Record of Survey Map of Powder Pointe Condominiums Amended, recorded concurrently with the Restated Declaration as Entry No. 249203 in the Official Records of said County (hereinafter referred to as the "Record of Survey Map Amended"), Declarant totally amended, completely superseded and entirely replaced Sheet No. 1 of the Original Record of Survey Map with the Record of Survey Map Amended.

D. By that certain First Amendment to the Restated Declaration recorded April 8, 1986, as Entry No. 249206, in Book 380, at Page 251 of the Official Records of said County, and re-recorded April 10, 1986, as Entry No. 249301, in Book 380, at Page 492 of the Official Records of said County (hereinafter called the "First Amendment"), Declarant amended the Restated Declaration in certain particulars as set forth in the First Amendment.

E. By that certain Record of Survey Map of Powder Pointe Condominiums Amended-No. 2, recorded concurrently with the First Amendment as Entry No. 249205 of the Official Records of said County (hereinafter referred to as the "Record of Survey Map Amended-No. 2"), Declarant totally amended, completely superseded and entirely replaced Sheet No. 1 of the Record of Survey Map Amended and Sheet No. 5 of the Original Record of Survey Map with the Record of Survey Map Amended-No. 2.

F. The Association now desires by recording this Amendment to amend further the Restated Declaration, as previously amended by the First Amendment, as more particularly hereinafter set forth.

G. Article XXVII of the Restated Declaration provides that the Restated Declaration may be amended upon the affirmative vote or approval and consent of Unit Owners having ownership of not less than sixty-six and two-thirds percent (66-2/3%) of the undivided interest in the Common Areas and Facilities of the Project and that any amendment so authorized shall be accomplished by recordation of an instrument executed by the Board of Trustees of the Association in which the Board of Trustees shall certify that the vote or consent required by said Article of the Restated Declaration has occurred.

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G. As evidenced by the Action of Members of the Association by Unanimous Written Consent attached hereto, the Unit Owners having ownership of one hundred percent (100%) undivided interest in the Common Areas and Facilities of the Project have given their written approval and consent to this Second Amendment to the Restated Declaration.

W I T N E S S E T H

NOW, THEREFORE, the Restated Declaration, as previously amended by the First Amendment, is hereby amended as follows, with such amendment to become effective upon the recording of this Second Amendment in the Official Records of Summit County, Utah:

1. Article V, Section 2 (Description of Improvements). Section 2 of Article V of the Restated Declaration entitled "Description of Improvements," as previously amended by the First Amendment, is hereby deleted in its entirety and the following is substituted in its stead:

2. Description of Improvements. The Project has been constructed on said land in accordance with the information contained in the Map. The Map shows the number of stories and basements contained in the buildings in the Project. Said buildings contain a total of thirty-two (32) Units, twenty (20) of which (this is, all Units in the Project except the twelve (12) Units located on the top floors) contain, among other things, one bedroom and one bathroom. All twelve (12) Units located on the top floors of the buildings contain, among other things, one bedroom, a loft, and one and three-quarters bathrooms. The parking level of Building A contains, among other things, ten (10) covered common parking spaces which have garage doors, thirteen (13) individual storage spaces and a laundry room. The parking level of Building B contains, among other things, five (5) covered common parking spaces which do not have garage doors and nineteen (19) individual storage spaces. The Project also contains an additional seventeen (17) uncovered common parking spaces. Each of the buildings in the Project is of wood-frame construction with wood veneers and concrete foundations. Electricity will be separately metered to each Unit to provide power, hot water and

heat. Each Unit will contain carpets, floor coverings and drapes, will be equipped with kitchen appliances, including a refrigerator, will be completely furnished and will contain normal and usual household supplies, including china, cutlery, glassware, utensils, pots and pans and similar items, but excluding bedding and towels. The Project will be subject to the easements which are reserved through the Project and as may be required for Utility Services.

2. Article XXII, Section 1 (Maintenance). Section 1 of Article XXII of the Restated Declaration (which Article is entitled "Maintenance") is hereby deleted in its entirety and the following substituted in its stead:

1. Each Owner of a Unit at his own expense shall keep the interior of such Unit and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating and painting which may at any time be necessary to maintain the good appearance of such Unit. Except to the extent that the Association on behalf of all Unit Owners is protected by insurance against such injury, the Unit Owner shall repair all injury or damages to the Unit, building or buildings caused by the act, negligence or carelessness of the Unit Owner or that of any tenant or subtenant or any member of the Unit Owner's family or of the family of any tenant or subtenant or any agent, employee or guest of the Owner or his tenant or subtenant and all such repairs, redecorating and painting shall be of a quality and kind equal to the original work. In addition to decorating and keeping the interior of the Unit in good repair, the Unit Owner shall be responsible for the maintenance or replacement of any heating equipment, hot water equipment or plumbing fixtures that may be used exclusively by the Unit. Any other provisions of this Declaration to the contrary notwithstanding, each Unit Owner at his expense shall also maintain, but not repair, all Limited Common Areas appurtenant to his Unit in good order

and in a clean and sanitary condition, including, without limitation, snow removal if desired by such Owner. Each Unit Owner shall be entitled to the exclusive use and possession of the Limited Common Areas appurtenant to his Unit; provided, however, that without the written permission of the Board of Trustees first had and obtained, a Unit Owner shall not make or permit to be made any structural alteration, in or to the Unit or in or to the exterior of the building, and shall not paint or decorate any portion of the exterior of the Unit or of the building in which the Unit is located.

3. Exhibit "B": Article III, Section 3.01 of Bylaws (Annual Meetings of Members). Section 3.01 of Article III of the Bylaws attached to the Restated Declaration as part of Exhibit "B," which Section 3.01 of said Bylaws is entitled "Annual Meetings," is hereby deleted in its entirety and the following is substituted in its stead:

3.01 Annual Meetings. The annual meeting of Members shall be held in August of each year, the specific date, time, and place to be fixed by the Board of Trustees, beginning with the year in which the Articles of Incorporation are filed, for the purpose of electing Trustees and transacting such other business as may come before the meeting. If the election of Trustees shall not be held on the day designated herein for the annual meeting of the Members, or at any adjournment thereof, the Board of Trustees shall cause the election to be held at a special meeting of the Members to be convened as soon thereafter as may be convenient. The Board of Trustees may from time to time by resolution change the date and time for the annual meeting of the Members.

4. Exhibit "B": Article III, Section 3.06 of Bylaws (Quorum of Members). Section 3.06 of Article III of the Bylaws attached to the Restated Declaration as part of Exhibit "B," which Section 3.06 of said Bylaws is entitled "Quorum," is hereby deleted in its entirety and the following is substituted in its stead:

3.06 Quorum. At any meeting of the Members duly called and noticed, the Members and proxy holders present shall constitute a quorum for the transaction of business.

5. Exhibit "B": Article IV, Section 4.02 of Bylaws (Number, Tenure and Qualifications of Board of Trustees). Section 4.02 of Article IV of the Bylaws attached to the Restated Declaration as part of Exhibit "B," which Section 4.02 of said Bylaws is entitled "Number, Tenure and Qualifications," is hereby deleted in its entirety and the following is substituted in its stead:

4.02 Number, Tenure and Qualifications. The initial Board of Trustees specified in the Articles of Incorporation shall consist of three (3) Trustees who shall serve until the Declarant turns over to the Members, as provided in Section 2 of Article XII of the Declaration, the responsibility for electing Trustees. Thereafter the number of Trustees of the Association shall continue to be three (3). At the first annual meeting of the Members held after the Declarant turns over to the Members responsibility for electing Trustees, the Members shall elect three (3) Trustees to serve for a term of one (1) year each. At each annual meeting thereafter, the Members shall elect for a term of one (1) year three (3) Trustees to fill the vacancies created by the expiring terms of the Trustees. All Trustees, except Trustees appointed by the Declarant, shall be Members of the Association. Each Trustee shall hold office until his successor shall have been elected or appointed and qualified.

6. Construction. From and after the date and time this Second Amendment becomes effective, all references in the Restated Declaration, as previously amended by the First Amendment, and in the exhibits to the Restated Declaration, as previously amended by the First Amendment, shall be deemed to and shall refer to the Restated Declaration, as previously amended by the First Amendment, and to the exhibits to the Restated Declaration, as previously amended by the First Amendment, as amended hereby and not to the form of the same as they existed prior to the date and time this Second Amendment becomes effective. Except as herein otherwise expressly provided, all provisions of the Restated Declaration, as previously amended by the First Amendment, and the exhibits to

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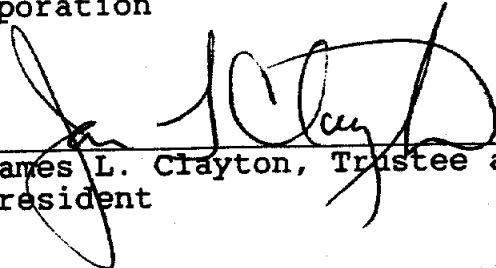
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the Restated Declaration, as previously amended by the First Amendment, shall remain unchanged and in full force and effect.

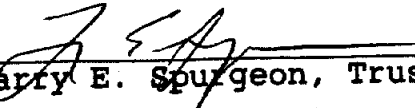
7. Certification of Board of Trustees and President of the Association. The Board of Trustees of the Association hereby certifies, pursuant to the requirement of Article XXVII of the Restated Declaration, that the Unit Owners having ownership of one hundred percent (100%) of the undivided interest in the Common Areas and Facilities of the Project have given their written approval and consent to this Second Amendment. Further, James L. Clayton, President of the Association, hereby certifies, pursuant to the requirement of Article X of the Bylaws attached to the Restated Declaration as part of Exhibit "B," that one hundred percent (100%) of the votes of Members of the Association were cast in favor of the foregoing Amendments to said Bylaws and that the total voting power of the Members of the Association was one hundred percent (100%).

IN WITNESS WHEREOF, the Association has executed this Second Amendment as of the day and year first above written.

POWDER POINTE CONDOMINIUMS OWNERS  
ASSOCIATION, a Utah nonprofit  
corporation

By   
James L. Clayton, Trustee and  
President

By   
E. Fred Sturges, Trustee

By   
Larry E. Spurgeon, Trustee

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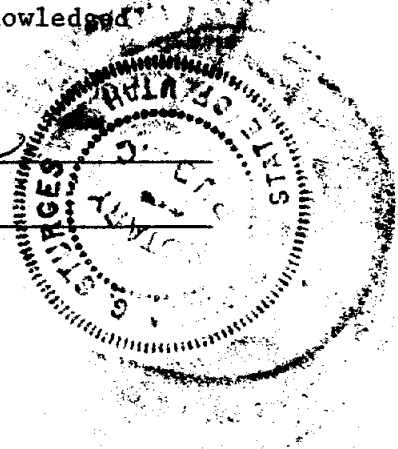
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ACKNOWLEDGEMENT & VERIFICATION

STATE OF UTAH )  
 :ss.  
COUNTY OF UTAH )

On the 2nd day of May, 1986, personally acknowledged to me that he, James L. Clayton, who being by me duly sworn, did say that he is the president and a trustee of Powder Pointe Condominiums Owners Association, that he signed the foregoing Second Amendment to Amended and Restated Condominium Declaration on May 1, 1986, as president and a trustee of such nonprofit corporation by authority of a resolution of its members, and that the statements therein contained are true and correct, and said James L. Clayton Acknowledged to me that said corporation executed the same.

Pamela S. Sturges  
Notary Public  
Residing at: SUMMIT COUNTY



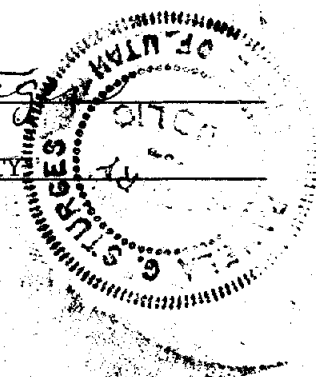
My Commission Expires: 12/11/89

ACKNOWLEDGEMENT

STATE OF UTAH )  
 : ss.  
COUNTY OF SUMMIT )

On the 2nd day of May, 1986, personally acknowledged to me that he, E. Fred Sturges, who being duly sworn, did say that he is a trustee of Powder Pointe Condominiums Owners Association, a Corporation, and that the foregoing instrument was signed on May 1, 1986, on behalf of said corporation by authority of a resolution of its members, and said E. Fred Sturges acknowledged to me that said corproation executed the same.

Pamela S. Sturges  
Notary Public  
Residing at: SUMMIT COUNTY



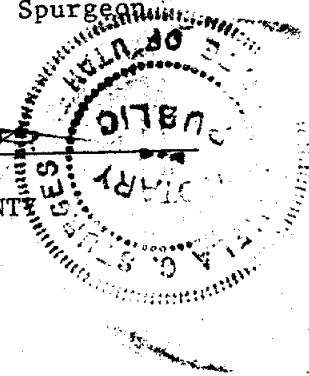
My Commission Expires: 12/11/89



STATE OF UTAH            )  
                                  : ss.  
COUNTY OF SUMMIT        )

On the 2nd day of May, 1986, personally acknowledged to me that he, Larry E. Spurgeon, who being by me duly sworn, did say that he is a trustee of Powder Pointe Condominiums Owners Association, a corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of a resolution of its members, and said Larry E. Spurgeon acknowledged to me that said corporation executed the same.

*Pamela A. Sturgis*  
Notary Public  
Residing at: SUMMIT COUNTY



My Commission Expires: 12/11/89

EXHIBIT "A"

Legal Description of the Property

BEGINNING AT A POINT WHICH IS EAST 1300.954 FEET AND NORTH 373.766 FEET FROM THE SOUTHWEST CORNER OF SECTION 9, TOWNSHIP 2 SOUTH, RANGE 4 EAST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE SOUTH 55°09'22" WEST, 69.220 FEET; THENCE SOUTH 60°23'14" WEST, 120.897 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF EMPIRE AVENUE, PARK CITY, UTAH; THENCE NORTH 30°36'00" WEST, 71.910 FEET ALONG SAID RIGHT-OF-WAY LINE TO A POINT OF CURVATURE OF A 475.000 FOOT RADIUS CURVE TO THE RIGHT (RADIUS POINT BEARS NORTH 59°24'00" EAST); THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE 60.588 FEET (DELTA = 7°18'30") ALONG SAID RIGHT-OF-WAY; THENCE NORTH 23°17'30" WEST, 55.902 FEET ALONG SAID RIGHT-OF-WAY TO A POINT OF CURVATURE OF A 5.000 FOOT RADIUS TO THE RIGHT (RADIUS POINT BEARS NORTH 66°42'30" EAST); THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE 8.238 FEET (DELTA = 94°23'49") TO THE SOUTHERLY RIGHT-OF-WAY LINE OF 15TH STREET TO A POINT OF CURVATURE OF A 352.666 FOOT RADIUS CURVE TO THE LEFT (RADIUS POINT BEARS NORTH 18°53'41" WEST); THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND RIGHT-OF-WAY 16.856 FEET (DELTA = 2°44'19"); THENCE NORTH 68°22'00" EAST, 55.040 FEET ALONG SAID RIGHT-OF-WAY TO A POINT OF CURVATURE OF A 283.553 FOOT RADIUS CURVE TO THE RIGHT (RADIUS POINT BEARS SOUTH 21°38'00" EAST); THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE AND RIGHT-OF-WAY 93.017 FEET (DELTA = 18°47'43") TO A POINT OF CURVATURE OF A 8.480 FOOT RADIUS CURVE TO THE RIGHT (RADIUS POINT BEARS SOUTH 2°50'17" EAST); THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE 8.614 FEET (DELTA = 58°20'17") TO THE WESTERLY RIGHT-OF-WAY LINE OF WOODSIDE AVENUE; THENCE SOUTH 34°30'00" EAST, 141.645 FEET ALONG SAID RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING.

CONTAINING 0.7388 ACRES, MORE OR LESS

SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS RIGHT-OF-WAYS AND RESTRICTIONS OF RECORD.

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ACTION OF MEMBERS  
OF  
POWDER POINTE CONDOMINIUMS OWNERS ASSOCIATION  
BY UNANIMOUS WRITTEN CONSENT

The undersigned, constituting all of the members of POWDER POINTE CONDOMINIUMS OWNERS ASSOCIATION, a Utah nonprofit corporation (herein called the "Association"), do hereby take the following action by unanimous written consent as authorized by Section 3.10 of the Association's Bylaws and by Section 16-6-33 of the Utah Code Annotated:

WHEREAS, the foregoing Second Amendment to Amended and Restated Condominium Declaration for Powder Pointe Condominiums has been submitted to and reviewed by each of the members of the Association; and

WHEREAS, each of the members of the Association deems it to be in the best interest of the Association to approve said Second Amendment;

NOW, THEREFORE, BE IT RESOLVED, that the foregoing Second Amendment to Amended and Restated Condominium Declaration for Powder Pointe Condominiums is hereby approved by the unanimous affirmative written consent of the members of the Association as required by Article XXVII of the Amended and Restated Condominium Declaration for Powder Pointe Condominiums and by Article X of the Bylaws attached to said Declaration as part of Exhibit "B" thereto; and

RESOLVED FURTHER, that the Board of Trustees and President of the Association are hereby authorized and instructed to execute said Second Amendment on behalf of the Association and to certify therein that said Second Amendment has been approved as required by said Article XXVII of said Declaration and by Article X of said Bylaws, and to cause said Second Amendment to be recorded in the Official Records of Utah County, Utah; and

RESOLVED FURTHER, that the Board of Trustees and/or President of the Association, and each of them, is hereby authorized and instructed to sign all other documents and take all other action as they deem reasonably necessary to carry out the purposes and intent of these resolutions.

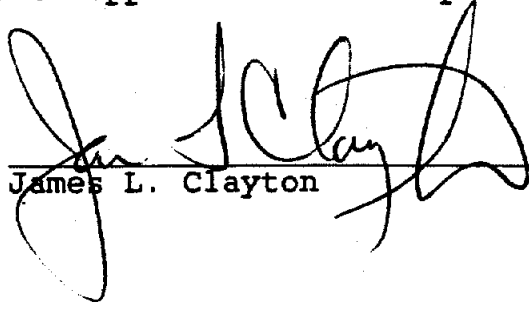
IN WITNESS WHEREOF, the undersigned have each executed this Action of Members of the Association by Unanimous Written

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Consent as of the date set forth opposite their respective signatures below:

Executed this 1st day of MAY, 1986.

  
James L. Clayton

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 1986.

Donald H. Humphries

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 1986.

Diana Humphries

~~STATE OF UTAH )  
: ss.  
COUNTY OF \_\_\_\_\_ )~~

~~On this \_\_\_\_\_ day of \_\_\_\_\_, 1986, personally appeared before me James L. Clayton, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.~~

NOTARY PUBLIC  
Residing at: \_\_\_\_\_

My Commission Expires:  
\_\_\_\_\_

STATE OF UTAH )  
: ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1986, personally appeared before me Donald H. Humphries, the signer of the

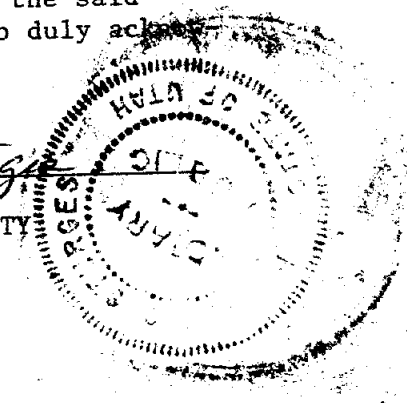
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STATE OF UTAH            )  
                                  : ss.  
COUNTY OF SUMMIT    )

On the 2nd day of May, 1986, personally acknowledged to the said James L. Clayton, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

*Pamela A. Sturgeon*  
Notary Public  
Residing At: SUMMIT COUNTY



My Commission Expires: 12/11/89

Consent as of the date set forth opposite their respective signatures below:

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 1986.

James L. Clayton

Executed this 28<sup>th</sup> day of April, 1986.

Donald H. Humphries  
Donald H. Humphries

Executed this 28<sup>th</sup> day of April, 1986.

Diana Humphries  
Diana Humphries

STATE OF UTAH )  
  ) : ss.  
COUNTY OF Salt Lake )

On this \_\_\_\_\_ day of \_\_\_\_\_, 1986, personally appeared before me James L. Clayton, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

\_\_\_\_\_  
NOTARY PUBLIC  
Residing at: \_\_\_\_\_

My Commission Expires:  
\_\_\_\_\_

STATE OF UTAH )  
  ) : ss.  
COUNTY OF Salt Lake )

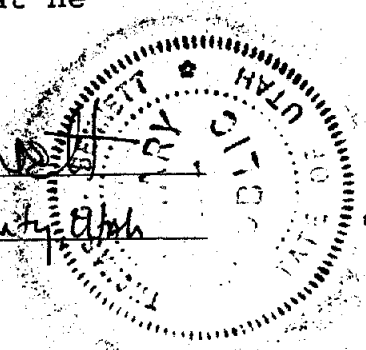
On this 28<sup>th</sup> day of April, 1986, personally appeared before me Donald H. Humphries, the signer of the

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foregoing instrument, who duly acknowledged to me that he executed the same.

Thomas G. Bennett  
NOTARY PUBLIC  
Residing at: Salt Lake County, Utah



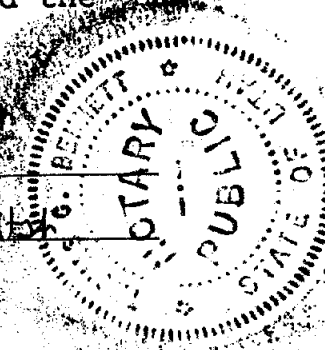
My Commission Expires:

1-4-88

STATE OF UTAH )  
COUNTY OF Salt Lake ) ss.

On this 28<sup>th</sup> day of April, 1986, personally appeared before me Diana Humphries, the signer of the foregoing instrument, who duly acknowledged to me that he executed the same.

Thomas G. Bennett  
NOTARY PUBLIC  
Residing at: Salt Lake County, Utah



My Commission Expires:

1-4-88

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