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BOROUGH PARK PROFESSIONAL CONDOMINIUMS

DECLARATION OF CONDOMINIUM

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
 COUNTY OF MONTGOMERY §

THAT BOROUGH PARK DEVELOPERS, LTD., a Texas limited partnership, being the owner of that tract of land more particularly described in Part I of Exhibit A attached hereto and made a part hereof for all purposes and the improvements thereon and desiring to submit the property to the Texas Uniform Condominium Act (Tex. Prop. C. § 82.001 - 82.164) for the purpose of establishing a condominium regime, does hereby adopt, establish, promulgate and impress this Declaration of Condominium (the "Declaration") upon such property in accordance with and subject to the terms and provisions hereof. The condominium regime herein created shall be known as "BOROUGH PARK PROFESSIONAL CONDOMINIUMS."

ARTICLE I

DEFINITIONS

Section 1.1 Definition of Terms. When used in this Declaration of Condominium, the words set out below shall have the following meanings:

(a) Units. The five (5) condominium units (numbered as Units No. 105 through 109) described and designated in Exhibit C and D, each of which units is described by metes and bounds in Exhibits D-1 through D-5, which boundaries are the interior surfaces of the perimeter walls, floors and ceilings of such units, and units shall include the portions of the building so described and the air space so encompassed, but shall exclude all common elements. The term "unit" has the same meaning as used in the Texas Condominium Act. Included within the boundaries of each unit, but without limitation, shall be any finishing materials applied or affixed to the interior surfaces of the perimeter walls, floors or ceilings (such as, but without limitation, texture material, paint, wallpaper, wall or floor coverings and carpets); interior walls; all utility pipes, lines, systems, fixtures or appliances within and servicing only that unit; and, whether or not within the boundaries of that unit, the breaker boxes of such unit and all electrical lines and cables located past the point of entry into the breaker boxes of a unit. Whether or not the same are located within the metes and bounds of each unit per the field note descriptions in Exhibits D-1 through D-5, the boundaries of each unit shall also include:

- (i) the interior surfaces of windows and doors, perimeter window frames and door frames;
- (ii) interior trim around windows and doors shall be part of each unit and shall not be common elements; and

(iii) visible and exposed plumbing fixtures, lines and pipes that are located in each unit.

(b) Board of Directors. The board of directors of the council of owners, including the initial board of directors appointed by Declarant pursuant to Section 3.5 hereof.

(c) Building. The office building designed for business and professional occupancy, and all other improvements now or hereafter placed on the property, initially consisting of the five (5) units described in Exhibits C, D, and D-1 through D-5. The building and common elements (both limited and general) are to be constructed in one (1) phase. The location of the building on the property shall be substantially as described on Exhibit C attached hereto and made a part hereof for all purposes. The building is more completely described in the plats attached hereto as Exhibit D and made a part hereof for all purposes. The units within the building are more completely described in the field note descriptions attached as Exhibits D-1 through D-5.

(d) Bylaws. The bylaws of the council of owners adopted of even date herewith by the Declarant and as hereafter amended, altered or changed in compliance with applicable law and the bylaws. A true and correct copy of the bylaws are attached hereto and made a part hereof for all purposes.

(e) Common areas. The lobbies, hallways, stairs, porches, parking areas, driveways and other common elements intended to be used for parking, passage or temporary occupancy by persons.

(f) Common elements. The common elements shall be and include all of the property except the units as defined herein, and shall include, without limiting the generality of the foregoing, porches; foundations; supporting columns; girders; beams; slabs; supports; dividing walls between two or more units or between units and common elements; roofs; halls; lobbies; walkways; stairs; stairways; fire escapes; entrances and exits of the building; entryways outside the exterior door(s) of units; grounds; gardens; parking areas; meeting rooms; reception room; managerial and security offices; mailroom; areas used for storage of janitorial supplies; maintenance equipment and materials; electrical lines and cables up to and including the point of entry into the breaker boxes of a unit; plumbing pipes and lines installed in the walls of the building or of a unit, including chases for plumbing risers; installations of all central services, including power, light, gas and water; waste collection areas and facilities; elevators; tanks; pumps; motors; compressors; chases; ducts; risers; driveways; and in general all apparatus and installations existing for the common use or necessary or convenient to the operation, maintenance and use of the property as a condominium, including, but not limited to, those which have been designated as "common elements", "limited common elements" or common areas and facilities on the plats attached hereto; and all repairs and replacements of or additions to any of the foregoing.

(g) Common expense. All expenses for administration, management and operation of the condominium and the condominium regime and for repairs, maintenance, additions, alterations, reconstruction and operation of all or any portion of the common elements in

accordance with the provisions hereof, including such reserves, if any, as the board of directors may from time to time require for repairs to or replacements of common elements or for other contingencies.

(h) Common expenses charge. The periodic (e.g., monthly, quarterly, annually or otherwise as the board of directors may elect) level assessment made and levied by the board of directors against each owner for each owner's unit for common expenses and other costs and expenses provided for herein. The term "common expense charge" includes special assessments unless the context otherwise requires, however, the periodic level of common expense charges may be raised or lowered from time to time by the board of directors as herein provided.

(i) Common expense fund. The accumulated common expense charges and special assessments collected or received by and due and payable to the council of owners, together with any assessments or common expenses paid by the Declarant pursuant to Sections 4.2 or 4.3(a) hereof.

(j) Condominium. The property, the building and all other improvements erected upon and rights appurtenant to the property and the improvements thereon. The components of the condominium are further herein classified as "common elements", "limited common elements" and "units", as defined herein. The legal rights and duties of ownership, use and administration created by the terms of the Texas Condominium Act, this Declaration of Condominium, the bylaws and the rules and regulations promulgated thereunder are also a part of the condominium and are sometimes referred to herein as the "condominium regime".

(k) Council of owners. The Borough Park Professional Condominiums Council of Owners, a Texas non-profit corporation, the members of which shall be the owners of the individual units during the period of their respective ownerships, and the successors and assigns of such owners. The term "council of owners" shall have the same meaning as the term "counsel of owners" in the Texas Condominium Act.

(l) Declarant. BOROUGH PARK DEVELOPERS, LTD., a Texas limited partnership, and its successors or assigns, provided such successors or assigns are designated in writing by BOROUGH PARK DEVELOPERS, LTD. as a successor or assign of the rights of Declarant set forth herein, it being understood that no owner acquiring a unit under a deed from the Declarant shall, as a result of such deed, succeed to the rights of Declarant set forth herein. Any person acquiring all or any part of Declarant's interest in the condominium through foreclosure of the deeds of trust and security agreements recorded in the Official Public Records of Real Property of Montgomery County, Texas, under Clerk's File No. 9847308 (or any renewal, extension, rearrangement or replacement thereof, herein called, collectively, the "first mortgage"), or any conveyance in lieu of such foreclosure is hereby designated as a successor and assign of and shall succeed to the rights of Declarant set forth herein, and until said first mortgage is fully released, the holder of the indebtedness secured thereby shall have the right at any time and from time to time at its election upon written notice to Declarant to exercise the voting rights of Declarant with respect to all units which have not been released from said first mortgage.

(m) Directors. Members of the board of directors of the council of owners.

(n) Limited common elements. Those portions of the common elements reserved for the exclusive use of the owners of certain units to the exclusion of the owners of all other units, including the concrete pads for use by owners for mounting the air conditioning compressor units, that are or may be assigned and reassigned to each unit, from time to time, by the board of directors.

(o) Managing agent. The person, firm or entity which may be selected by the board of directors in accordance with the provisions hereof for the purposes of performing any duties, powers or functions of the board of directors in connection with the administration, management and operation of the condominium, including the duly authorized agent or representative of such person, firm or entity.

(p) Mortgage. A mortgage, deed of trust or pledge of or a security interest in a unit given to a creditor or a seller as security for the repayment of a loan made to or for the benefit of an owner, or of a deferred portion of the purchase price payable by an owner for his unit or improvements thereof or thereto.

(q) Mortgagee. The natural person, firm, partnership, corporation, trust or other entity who holds a mortgage.

(r) Owner. Any natural person or persons, firm, partnership, corporation, trust, association or other legal entity, or any combination thereof, which owns, of record, a unit in the condominium, including the Declarant.

(s) Parking spaces. The spaces for the parking of vehicles on the property, including property that is subject to the Special Agreements and other portions of the common elements which may be included within the areas for parking spaces, shown on Exhibit D and in the Special Agreements but are not intended or necessary for use in connection with the parking of vehicles.

(t) Percentage ownership interests. The undivided interests in and to the common elements associated with and appurtenant to each unit as set forth on Exhibit B attached hereto and made a part hereof for all purposes.

(u) Property. The 0.869 acres, more or less, of real property located in Montgomery County, Texas more particularly described by metes and bounds in Exhibit A, attached hereto and made a part hereof for all purposes, and all appurtenances thereto including rights arising under the Special Agreement.

(v) Special Agreements.

(i) This Declaration and all rights and appurtenances hereto are subject to the rights and benefits, and the burdens and obligations, of the parties to: (a) that one certain parking easement agreement recorded in the Official Public Records of Montgomery County,

Texas, under the Montgomery County Clerk's File Nos. 9805172 and 9830443 as restated and amended by instrument recorded in the Official Public Records of Montgomery County, Texas, under the Montgomery County Clerk's File No. 9844223.

(ii) This Declaration and all rights and appurtenances hereto are subject to the rights and benefits, and the burdens and obligations, of the parties to that one certain Declaration of Reciprocal Easements and Restrictive Covenants recorded in the Official Public Records of Montgomery County, Texas, under the Montgomery County Clerk's File No. 99023199.

(iii) This Declaration and all rights and appurtenances hereto are subject to the rights and benefits, and the burdens and obligations, of the parties to all easements, encumbrances and other conditions of title pertaining to the Property (in whole or in part) and evidenced by instrument or instruments that are in effect, pertain to the Property (or part thereof) and are recorded in the Official Public Records of Montgomery County, Texas.

(w) Rules and regulations. The rules and regulations adopted by the board of directors or the council of owners concerning the management and administration of the condominium and the use of the common elements in order to assure to all owners the pleasures and benefits of ownership of a unit, use of the common elements, and to establish procedures and, where deemed appropriate by the board of directors, standards for the initial and all subsequent additions, modifications, deletions and other changes to the interior finish of each unit.

(x) Special assessment. Any assessment over and above the periodic common expense charge deemed by the board of trustees to be necessary for the preservation, management and administration of the condominium, approved by the council of owners as hereinafter set forth.

(y) Compressor Pads. Limited common elements located on property and dedicated for the location of the exterior components of HVAC systems for the units. HVAC components located on compressor pads are not common elements and are and shall remain property of the owner to which each compressor pad is assigned.

(z) Texas Uniform Condominium Act. Section 82.001 - 82.169 of the Texas Property Code as currently modified and amended, which permits the creation of condominium regimes and provides the basic rules for their operation.

Section 1.2 Definitions of Rights and Responsibilities.

(a) Each owner shall have exclusive ownership of his respective unit and shall have the common right to share, with all other owners, in the use of the common elements in accordance with the purpose for which they are intended and the provisions hereof and the provisions of the bylaws and of the rules and regulations, without hindering or encroaching upon the lawful rights of other owners.

(b) Where the term "owner" is used in the granting of licenses, easements or rights to use units, common elements or limited common elements, the members of such owner (in the case of owners that are partnerships, joint ventures or other membership entities) and such owner's guests, tenants, servants, employees and invitees shall also be entitled to the rights, easements or licenses so granted, except to the extent limited or provided to the contrary herein or in the rules and regulations.

(c) The actual existing physical boundaries of each unit (or unit reconstructed in accordance with the original plans therefor) shall be conclusively presumed to be its boundaries regardless of settling, rising or lateral movement of the building in which it is located and regardless of variances between boundaries shown on the plat and those of the building in which it is located. None of the rights and obligations of the owners created herein, or by any deed delivered to any owner, shall be altered in any way by encroachments or the settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement or encroachment be created in favor of an owner or owners if said encroachment occurred due to the willful conduct of said owner or owners.

Section 1.3 HVAC Compressor Pads.

(a) Compressor pads, for the installation of exterior components of the HVAC systems for each, and shall be limited common elements for the exclusive use of the owner of the unit to which they are assigned initially by Declarant and thereafter by the board of directors. Compressor pads shall be assigned to each unit, initially by the Declarant and may thereafter be amended and changed by the board of directors whenever a unit is sold or transferred, so long as a compressor pad shall be assigned to each unit for the exclusive use of the owners thereof. The compressor pads are located as shown on Schedule I to Exhibit C, attached hereto, and are numbered 106 through 107 A and B, 108 and 109 for identification purposes. Any conveyance of any unit shall be deemed to convey also the compressor pad appurtenant thereto even though made without specifically or particularly referring to the same.

Section 1.4 Parking Spaces.

Parking spaces, including parking spaces the use of which by owners by license created in one of the Special Agreements shall be used only for parking of automobiles, sport utility vehicles and pickup trucks and shall not be used for the parking or storage of trucks, recreational vehicles, boats or trailers unless approved by the board of directors. If a parking space is assigned to the owner of a unit by the Declarant, such parking space shall be a limited common element for so long as the assigned owner is the owner of such unit, however, parking space designations, if granted by Declarant, are not appurtenant to such owner's unit and do not pass to such owner's successors and assigns. The exclusive rights to use of parking spaces assigned by Declarant to any owner remain subject to the terms and conditions of the Special Agreements and the rights of third parties granted therein.

(b) All use of a parking space, including the parking or storing of vehicles or other property therein, shall be at the sole risk and expense of the owner so using such parking space

and subject to the terms and conditions of the Special Agreements, and the council of owners, board of directors and Declarant shall not be liable or responsible to any such owner for any death, injury, loss or damage to any property or person resulting from or occasioned by such use of any parking space, including, without limitation, any death, injury, loss or damage resulting from assault, battery, theft, fire or other casualty or crime.

ARTICLE II

GENERAL PROVISIONS

Section 2.1 Use Restrictions.

(a) All units shall be used only for business and professional offices and related purposes necessary to support business and/or professional uses, without regard to whether the persons are owners of the unit or occupy the unit pursuant to a rental, leasing or other arrangement. No unit shall be used for any residential purpose nor for any educational or religious purpose. An owner cannot use one or more of the units as a church, synagogue, tabernacle, temple or other facility for conducting worship or other religious ceremonies or purposes.

(b) No noxious or offensive activities of any sort shall be permitted, nor shall anything be done in any unit or in any common element which reasonably shall be or may become an annoyance or nuisance to the other owners.

(c) Notwithstanding any other provisions of this Declaration of Condominium to the contrary, the Declarant may and hereby reserves for itself, its successors and assigns, the right to make such temporary use of the units owned by Declarant and the common elements (including, without limitation, the temporary relocation of compressor pads) wherever located and the use of all areas described in on Exhibits C and D as is reasonably necessary to facilitate and complete the construction of the improvements on or in the property and air space, construction of the buildings, the making of any repairs required pursuant to Declarant's sales agreements, the operation of Declarant's sales efforts and the showing of the condominium and any unsold units therein. The provisions of this Article II shall not prohibit use by the council of owners of all common elements in any reasonable manner necessary in connection with the operation and maintenance of the condominium.

(d) Nothing shall be done in or kept in or on any unit, porch, parking space or common element which will increase the rate of insurance on the condominium or any other unit or limited common element over that applicable to similar business and professional offices, or would result in uninsurability of the condominium or any part thereof, or the cancellation, suspension, modification or reduction of insurance in or on or covering the condominium or any part thereof. If, by reason of the occupancy or use of any unit or limited common element by any owner, the rate of insurance on all or any portion of the condominium shall be increased, such owner shall be personally liable to the council of owners for such increase caused thereby, and such sum shall be payable to the council of owners at the same time and in the same manner as provided for the payment of common expense charges.

(e) No owner shall install, attach or hang, or allow to be installed, attached or hung, any equipment or wiring or electrical installations, television or radio transmitting or receiving antennas, air-conditioning units or any other like equipment or wiring in or across any portion of any common elements protruding from any porch or through any wall, floor, ceiling, window or door which is a common element, except as approved by the council of owners. All radios, televisions, electrical equipment or appliances of any kind or nature and the wiring therefor installed or used in a Residence unit shall fully comply with all rules, regulations or requirements of all state and local public authorities having jurisdiction.

(f) Each owner shall promptly and fully comply with any and all applicable laws, rules, ordinances, statutes, regulations or requirements of any governmental agency or authority with respect to the occupancy and use of his unit and the limited common elements appurtenant thereto and with the provisions hereof, and the bylaws and rules and regulations promulgated hereunder.

Section 2.2 Decorations, Maintenance and Repairs of Units. Subject to compliance with all bylaws and rules and regulations adopted by the board of directors and governing the work, materials and design for the interior finish of each unit, any owner may decorate and redecorate his unit and may make any non-structural improvements or non-structural alterations within his unit (but not to common elements and not to any porches that are a part of his unit) and shall have the right to paint, repaint, tile, wax, paper, or otherwise furnish or decorate any interior surfaces of walls, partitions, ceilings and floors within the unit. Those portions of a porch which are not a part of the unit to which such porch is appurtenant are common elements and shall be maintained by the council of owners. Each owner shall, at his own cost and expense, maintain his unit in good condition and repair. The council of owners shall maintain all common elements, including those serving only a particular unit (whether or not within the boundaries of such unit), the cost of which shall be a common expense (except to the extent that repair to common elements serving only a particular unit is caused by the negligence or misuse of that particular owner, in which event such owner shall be liable to the council of owners for the cost of such repair, which sum shall be due and payable upon presentation to such owner by the council of owners of a statement thereof).

Section 2.3 Porches. No owner shall paint, remodel or enclose any porch. No owner shall store or place any objects or things of any description whatsoever on porch without the prior written approval of the board of directors. An owner may furnish a porch adjacent to such owner's unit with potted plants, upon prior written approval of the board of directors, in keeping with the provisions of this declaration and the rules and regulations promulgated hereunder.

Section 2.4 Alterations to Common Elements. No owner shall do any act or permit any act to be done in, on or to any unit, porch, parking space, or common element which will impair the structural integrity, weaken the support or otherwise adversely affect the building or any common element. Decorative wall items such as lights, shelves and art work may be affixed to or installed on the walls of any unit which are common elements without prior approval of the council of owners provided such affixation or installation is done in a good and

workmanlike manner and in a manner that shall not damage the building, another unit or any of the common elements. Except for such affixation or installation of decorative wall items, no owner shall make any alterations to any of the common elements (including walls, windows and doors which are common elements) nor install, attach, paste or nail any article thereto without the prior approval of the board of directors or the council of owners.

Section 2.5 Additional Provisions. The board of directors or the council of owners, by provisions of its bylaws or by rules and regulations enacted pursuant to the provisions hereof, may provide such additional rules and regulations for use of the common elements, the parking spaces, and the units as are necessary or desirable in the judgment of the board of directors or the council of owners for the operation of the condominium provided such rules and regulations and bylaws are not in conflict with the provisions of this Declaration of Condominium. Such bylaws, rules and regulations shall be applicable to the common elements and the units as though set forth herein at length.

Section 2.6 Encumbrances. This Declaration and the rights and obligations herein prescribed are subject and subordinated to the easements, resurrections, restrictions and other conditions titled in Exhibit E attached hereto, the mortgages described in Section 1.1(m), and the Special Agreements.

ARTICLE III

OWNERS' ASSOCIATION

Section 3.1 Authority to Manage.

(a) The affairs of the condominium and condominium regime shall be administered by the council of owners. The council of owners shall have all rights, powers and duties of the "council of owners," as that term is used in the Texas Condominium, Act. The council of owners shall have the right, power and obligation to provide for the maintenance, repair, replacement, administration and operation of the condominium and condominium regime as provided herein, in the bylaws and in the rules and regulations. The business and affairs of the council of owners shall be managed by the board of directors. The bylaws adopted of even date herewith by Declarant are hereby adopted by and shall be binding upon the council of owners, subject to amendment thereof pursuant to Section 10.2 below.

(b) Until appointment by Declarant of the initial board of directors (as provided for hereinbelow) the Declarant shall exercise all of the powers, rights, duties and functions of the board of directors for the benefit of the owners. The Declarant may engage itself or any entity, whether or not affiliated with the Declarant, as the managing agent under a management contract. In the event such managing agent is the Declarant or an affiliate of Declarant, then such contract shall provide for payment to the managing agent of a management fee substantially equal to the fees usually paid to managers of similar business and professional office buildings (whether rental or condominium) in the Houston, Texas metropolitan area. The association may terminate the management contract before the first anniversary of the date a board elected entirely by the unit owners other than Declarant takes office upon first providing 90 days'

notice to the managing agent of the board's intent to terminate the contract of the managing agent. After the election of the first board of directors solely by the unit owners other than Declarant, and upon the expiration or termination of any such management contract entered into by the Declarant on behalf of the council of owners, the board of directors may delegate any of its ministerial duties, powers or functions to a managing agent selected by the board of directors. The members of the board of directors shall not be liable for any omission or improper exercise by the managing agent of any such ministerial duty, power or function so delegated. Such delegation shall be by written instrument executed by a majority of the members of the board of directors.

Section 3.2 Membership in the Council of owners. Each owner (and only an owner) shall be a member of the council of owners so long as he, she or it shall be an owner, and such membership shall automatically terminate when he, she or it ceases to be an owner. Upon the transfer of ownership of a unit, the new owner succeeding to such ownership shall likewise succeed to membership in the council of owners. The council of owners may issue certificates of membership therein.

Section 3.3 Voting of Members.

(a) There shall be one vote in the affairs and management of the council of owners for each unit, weighed in proportion to the percentage ownership interest of such unit in the common elements as set forth by number and by formula in Exhibit B attached hereto. Whenever used in this declaration, the term a "majority vote of the council of owners" means the vote of the majority or the votes entitled to be cast by the members of the council of owners who are present, or are represented by proxy, at a meeting of the council of owners at which a quorum is present. In the event that ownership interests in a unit are owned by more than one member of the council of owners, the members who own fractional interests in such unit aggregating more than fifty percent (50%) of the whole ownership therefor shall appoint one member who shall be entitled to exercise the vote assigned to that unit at any meeting of the council of owners. Such designation shall be made in writing to the board of directors and shall be revocable at any time by actual notice to the board of directors or upon the death or judicially declared incompetence of any one of such members. In the event that a unit is owned by more than one member and no single member is designated to vote on behalf of the members having an ownership interest in such unit, then none of such members shall be allowed to vote and the vote of the unit so affected shall be excluded in all respects in determining whether a requisite number of votes has been cast in respect of the matter being voted upon. All members of the council of owners may be present at any meeting of the council of owners and may act at such meetings (whether physically present or not) either in person or by proxy.

(b) The Declarant may exercise the voting rights with respect to units owned by it. If at any time the council of owners shall hold legal title to one or more units, the votes to which the owner thereof otherwise would be entitled shall be disregarded until legal title thereto is conveyed to another owner.

Section 3.4 Meetings of the Members.

(a) The first meeting of the members of the council of owners shall be held when called by the initial board of directors upon not less than ten (10) days nor more than fifty (50) days' written notice to the members. Such written notice may be given at any time but must be given not later than thirty (30) days after at least fifty percent (50%) of all of the units have been sold by the Declarant, a deed therefor recorded, and the purchase price paid.

(b) Thereafter, an annual meeting of the members of the council of owners shall be held in the building or at such other place as may be designated by the board of directors at 9:00 o'clock a.m. on the first Saturday in March of each calendar year (or the first business day thereafter if such day is a legal holiday). Except as may be specifically required in the bylaws, no notice of annual meeting shall be required. At the discretion of the board of directors, the annual meeting of the members of the council of owners may be held at such other reasonable time (not more than sixty (60) days prior to or subsequent to the aforesaid date) as may be designated by written notice from the board of directors delivered to the members not less than ten (10) days nor more than fifty (50) days prior to the date fixed for said meeting.

(c) At the annual meeting of the members of the council of owners, the board of directors shall present a certified audit of the common expense fund, itemizing receipts and disbursements for the preceding calendar year and the allocation thereof to each owner. The estimated common expense charges for the coming calendar year as established in the annual budget provided for in Section 4.3(c) below shall also be presented. Within thirty (30) days after the annual meeting, the statements and estimates presented at the annual meeting by the board of directors shall be delivered to all owners to the extent the same have not previously been delivered to all owners pursuant to Section 4.3(c) or otherwise.

(d) Special meetings of the members of the council of owners may be called by the President or any Vice President of the council of owners at any time and shall be called upon petition to the President by members having twenty-five percent (25%) of the votes in the council of owners or by a majority of the board of directors. Written or printed notice stating the place, day and hour of such special meeting and the purpose or purposes for which the meeting is called shall be delivered to each member not less than ten (10) nor more than fifty (50) days before the date of such meeting.

(e) For the purpose of determining the members of the council of owners entitled to notice of a meeting and to vote at any meeting, the membership of the council of owners shall be determined at the close of business on the twenty-fifth (25th) day preceding such meeting.

Section 3.5 Board of Directors.

(a) Declarant shall have the power to appoint and replace three directors who will comprise the initial board of directors. None of the initial three directors appointed or replaced by Declarant need to meet the requirements set forth below for directors.

(b) The initial directors shall serve from the date of their appointment by Declarant until 120 days after 75% of the units have been conveyed to owners other than Declarant. At such time, any directors appointed by Declarant shall resign and their seats shall be filled as otherwise provided for regarding the filling of vacant director positions in this Section 3.5 (h).

(c) The board of directors shall consist of three (3) persons. Except for the directors appointed by Declarant for the initial board of directors, the members of the board of directors must be members of the council of owners or, in the event a unit is owned by a corporation, partnership, trust or other entity, then an officer, director, partner, trustee or other legal representative of such entity or other designated representative of such member of the council of owners. The directors shall be elected by the members at the first meeting of the members of the council of owners called pursuant to Section 3.4(a) above and at each annual meeting thereafter. Subject to the restrictions regarding the automatic resignation of the initial directors contained in Section 3.5(a), if at the initial meeting of the members of the council of owners, the members of the council of owners fail to elect and qualify a new board of directors for any reason, including the lack of a quorum being present, the initial members of the board of directors appointed by the Declarant shall continue to act as the board of directors until the members of the council of owners elect and qualify a new board of directors, however, for purposes of Section 4.2 hereof, a new board of directors shall be deemed to have been elected by the members of the council of owners at such initial meeting.

(d) If at the initial meeting of the members of the council of owners there are still directors appointed by the Declarant, the number of seats open for election shall be three (3) less the number of seats held by directors appointed by Declarant. One of the available seats shall be elected for a term of two (2) years and the other two shall be elected for a term of one (1) year.

(e) If there are no remaining initial directors at the initial meeting of the members of the council of owners, two (2) directors shall be elected for a term of two (2) years and one (1) shall be elected for a term of one (1) year. Thereafter, at the annual meeting of the members of the council of owners, any seats of directors whose term has expired shall be filled for a term of two (2) years.

(f) The candidates receiving the highest number of votes up to the number of members of the board of directors to be elected shall be deemed elected. All votes shall be cast by written ballot. Members of the council of owners may vote cumulatively for the election of directors if permitted by the articles of incorporation or bylaws of the council of owners..

(g) Any open seat formerly held by directors appointed by Declarant and vacated pursuant to Section 3.5(a) or not replaced by Declarant within 30 days shall be deemed a vacant seat and filled subject to rules for seats vacated in between regular elections under Section 3.5(h). The first and third seat thus vacated shall be regularly re-elected with the group of directors originally serving the initial two-year term, and the second vacancy shall be re-elected with the group of directors serving an initial one-year term.

(h) The initial directors appointed by Declarant may be removed or replaced only by Declarant, with or without cause. Otherwise, any director may be removed from the board of

directors, with or without cause, by a vote of the council of owners representing in the aggregate at least sixty-seven percent (67.0%) of the total vote of all units, weighted in accordance with their percentage ownership interest, cast by owners voting in person or by proxy at a special meeting called for such purpose or at an annual meeting. The resulting vacancy shall be filled by a vote of the council of owners. Except as to vacancies created by the removal of directors, vacancies in the board of directors, occurring between annual meetings of the council of owners, shall be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the board of directors. A director elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office.

(i) The presence of a majority of directors at a meeting of directors shall constitute a quorum for the transaction of business. The action of a majority of directors present at the meeting at which there is a quorum shall be the act of the board of directors. The annual meeting of the board of directors shall be held each year immediately following the annual meeting of the members of the council of owners, at the place of such annual meeting of the members of the council of owners, for the election of officers and the consideration of any other business that may properly be brought before such meeting of the board of directors. Regular meetings of the board of directors shall be held at such times and places as the board of directors shall determine. Special meetings of the board of directors shall be held at any time upon the call of the President or upon call by two (2) directors. Notice of such special meeting of the board of directors shall be in writing.

Section 3.6 Actions without Meetings. Any action required by this declaration or by law to be taken at a meeting of the members of the council of owners or at a meeting of the board of directors may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the members of the council of owners entitled to vote with respect to the subject matter thereof, or signed by all the members of the board of directors, as the case may be. Such consent shall have the same force and effect as a unanimous vote at a meeting.

Section 3.7 Officers. The officers of the council of owners shall be elected by the board of directors and shall consist of a president, a vice president, a secretary and a treasurer and such other vice presidents, assistant vice presidents, assistant secretaries and assistant treasurers as may be convenient or necessary in the judgment of the board of directors for the administration and operation of the condominium. The president and vice president shall be elected from among the members of the board of directors. An owner may hold more than one office at a time in the council of owners.

Section 3.8 Administration of the Condominium. The council of owners, acting through the board of directors, its officers or other duly authorized management representatives (including, without limitation, a managing agent), shall manage the business and affairs of the condominium and shall, without limitation, have the powers of collection and enforcement set forth herein; and for the benefit of all of the owners in the condominium shall provide, perform, cause to be performed, maintained, acquired, contracted and paid for out of the common expense fund the following:

(a) Utility services used in or for the common elements, water and sewer services used by or consumed by the units and, if not separately metered or charged, other utility services for the units. Electricity, telephone and other utility services separately metered or charged shall be paid for by the owner of the unit served by such utility services.

(b) The insurance required by Section 5.1 hereof and such other policies of casualty, liability and/or other insurance covering persons, property and risks as are in the best interest of the condominium as determined by the board of directors.

(c) The services of a managing agent and such other persons as the board of directors shall, from time to time, determine are necessary or proper to the daily management, operation and maintenance of the condominium. Such services shall include the providing and handling, prior to the opening of the condominium for occupancy (and the execution and recordation hereof), of all necessary arrangements for management, operation and maintenance of the condominium after such opening, including, without limitation, hiring and training condominium personnel, negotiating and obtaining insurance required by Section 3.8(b) above, purchasing initial inventories of supplies, tools and equipment, and assisting owners in moving into their units.

(d) All supplies, tools and equipment reasonably required for use in the management, operation, maintenance, cleaning and enjoyment of the condominium.

(e) The cleaning, maintenance, repairing, reconstruction and replacement of the common elements as the board of directors shall determine is necessary, subject to the limitations set forth elsewhere herein.

(f) The services of maintenance workers, gardeners, security guards, bookkeepers, secretaries and such other persons to the extent necessary for the operation of the condominium in the manner desired by the members of the council of owners.

(g) The removal of all trash, garbage and rubbish from central garbage receptacles or other receptacles of the building, including the employment of the services of a garbage collection company or agency, public or private.

(h) Costs of bookkeeping of the accounts of the council of owners and the annual audit provided for herein, legal and accounting services and fees of the council of owners, premiums for fidelity bonds, taxes or assessments of whatever type assessed or imposed against any of the common elements including, without limitation, rentals, fees, assessments and other amounts from time to time owing to any governmental authorities for paving, curbing and/or use of portions of the street or sidewalk rights-of-way adjoining the condominium.

(i) Cable television and security guard and patrol services, including contracting with or employing a cable television service company and/or a security guard and patrol service company.

The board of directors shall not, without the prior resolution of the council of owners adopted by a majority vote of the council of owners at a meeting of the members thereof, contract or pay out of the common expense fund for any one item of capital addition or improvement (other than replacement of existing common elements) at a cost in excess of TWENTY FIVE THOUSAND AND NO/100THS (\$25,000.00) U.S. DOLLARS. Nothing herein shall authorize the board of directors to furnish to any person services primarily convenience of any owner or owners of any unit other than services customarily rendered to all owners and occupants of units. The board of directors (including its duly authorized managing agent) shall have the exclusive right and obligation to contract for all goods, services and insurance in connection with the administration of the condominium, payment for which is to be made from the common expense fund.

Section 3.9 Accounting and Audit. The board of directors shall keep or cause to be kept books of detailed account of the receipts and expenditures affecting the condominium and its administration and specifying the maintenance and repair expenses of the common elements and any other expenses incurred by or on behalf of the condominium or the council of owners. Both the books of accounts and all vouchers supporting the entries made therein shall be available for examination at the office of the council of owners by all owners at convenient hours on working days, and the board of directors shall cause to be established and announced for general knowledge the days and hours within which such books shall be available for inspection. All such books and records shall be kept in accordance with generally accepted accounting procedures, consistently applied, and shall be audited at least once a year by an outside auditor selected by the board of directors. Upon the affirmative vote of any two (2) directors, the outside audit shall be conducted and certified by a licensed certified public accountant. The fiscal year of the council of owners shall be as provided in Section 4.3(b) hereof.

Section 3.10 Right of Entry. The council of owners, or its duly authorized representative (including any then acting managing agent), shall have the right and authority to maintain a master key to the units and to enter any unit for the purposes of:

- (a) Making repairs therein.
- (b) Performing necessary maintenance or repairs to the common elements for which the council of owners is responsible.
- (c) Abating any nuisance or any dangerous, unauthorized, prohibited or unlawful activity being conducted or maintained in such unit (including, without limitation, removal of the objects placed upon or stored on any porch without the prior written approval of the board of directors).
- (d) Protecting the property rights and welfare of other owners.
- (e) Enforcing the provisions of this Declaration of Condominium, the bylaws or the rules and regulations promulgated thereunder.

Except in the event of an emergency, such right of entry shall be exercised only in the presence of the owner or other occupant of the unit which is entered. In all events, such right of entry shall be exercised in such manner as to avoid any unreasonable or unnecessary interference with the possession, use or enjoyment of the unit by the owner or occupant thereof and shall, whenever possible, be preceded by reasonable notice to the owner or occupant thereof. In the event that any damage is caused to the property of any owner in connection with the exercise of such right of entry, such damage shall be repaired at the expense of the council of owners and the board of directors is authorized to expend common expense funds therefor. The rights of entry herein granted to the council of owners or its duly authorized representative shall be accomplished by and exercised subject to such methods and procedures as are set forth in the rules and regulations.

Section 3.11 Notices. Any notice permitted or required to be given to a member of the board of directors or to an owner may be delivered personally, by mail, or by placing such notice in the mail distribution facilities of each owner if such facilities are present in the building. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after deposit in the U. S. Mail, postage prepaid, addressed to an owner at his unit or to such other address as the owner may have given in writing to the secretary of the council of owners for the purpose of service of notices. Any address for purposes of notice may be changed from time to time by notice in writing to the secretary of the council of owners.

Section 3.12 Electrical Service Obligations. The council of owners shall maintain all pre-wired modular-type metering cabinets installed in the condominium, including the maintenance of replacement parts with respect thereto, it being understood that Houston Lighting & Power Company ("HL&P") will not maintain any such spare parts nor perform any repairs on such modular-type metering cabinets and that failure by the council of owners to timely repair such modular metering cabinets (or maintain an adequate number of spare parts with respect thereto) may result in termination of electrical service to the condominium (or a particular unit) until such repairs are completed or such spare parts obtained. To the extent required by any contract covering electrical service to the condominium, HL&P and the council of owners assume all responsibility on their respective sides of the point of delivery for the electric service supplied and taken, as well as for any apparatus used in connection therewith. For the mutual protection of the council of owners and HL&P, only authorized employees of HL&P are permitted to make and energize the connection between HL&P service wires and the condominium's service entrance conductors. To the extent required by any contract covering electrical service to the condominium, HL&P and the council of owners shall save the other harmless from and against all claims for injury or damage to persons or property occasioned by or in any way resulting from the safe installation, repair and condition of their respective lines and appurtenances on their respective sides of the point of delivery. The council of owners hereby adopts all existing contracts and agreements with HL&P covering electrical service to the condominium and assumes and agrees to pay and/or perform all obligations of the customer and/or Declarant hereafter accruing thereunder and agrees to indemnify and hold harmless the Declarant therefrom.

ARTICLE IV

COMMON EXPENSE FUND; ASSESSMENTS; COLLECTIONS

Section 4.1 Common Expense Charges. Except as provided in Sections 4.2 and 4.3 hereof, all owners are bound to contribute, in proportion to their percentage ownership interests, to the common expense fund as a common expense charge, the common expense and other expenses provided by the terms hereof to be said by the council of owners or those expenses agreed upon to be assumed by the council of owners pursuant to this declaration, its bylaws and rules and regulations. No owner shall be exempt from the obligation to make such contribution to the common expense fund by waiver of the use or enjoyment of the common elements, either general or limited, or by abandonment of the unit belonging to him, or under any other circumstances.

Section 4.2 Payment of Common Expenses by Declarant. The Declarant shall pay to the council of owners, until election of the first board of directors as provided in Sections 3.4(a) and 3.5 above, in addition to its percentage ownership interest of common expenses as provided in Section 4.3(a) below, an amount, if any, by which the "actual operating expenses" (as hereinafter defined) incurred for any fiscal year of the council of owners (or portion thereof) ending prior to such election of the first board of directors (the "opening period"), exceeds the aggregate of the common expense charges payable by owners (other than Declarant) of units for the opening period plus the common expenses payable by Declarant (in its capacity as an owner) for the opening period pursuant to Section 4.3(a) below. In the event that the amounts collected as common expense charges from owners, other than the Declarant, plus the common expenses collected from Declarant for any month during the opening period pursuant to Section 4.3(a) below exceed the actual operating expenses for such month, then an amount equal to such excess shall be paid by Declarant to the common expense fund as provided in Section 4.3(a) below, subject to adjustment (and proration on a daily basis) at the end of the opening period, if necessary, so that Declarant's aggregate obligations under this Section 4.2 will equal the amount provided in the first sentence of this Section 4.2. If adjustment is necessary, the amount of such overpayment or underpayment by Declarant shall be paid by Declarant to the common expense fund or paid to Declarant out of the common expense fund, as the case may be, within thirty (30) days after such amount is determined and invoiced to Declarant or the council of owners, as appropriate. For the purposes of this provision, the term "actual operating expenses" shall mean those actual expenses reasonably necessary for the normal maintenance and operation of the condominium and shall not include capital expenditures, *ad valorem* taxes, reserves, prepaid items, inventory items or similar expenses to the extent attributable to periods after the opening period, all of which shall be prorated on a daily basis through the opening period. After the opening period, the common expense charge to be paid by each owner (including the Declarant) shall be determined as provided in other portions of this Article IV.

Section 4.3 Budgets, Establishment of Common Expense Charges and Special Assessments.

(a) The Declarant shall have the right and obligation to establish the annual budgets (each such budget being referred to as an "initial budget") for each fiscal year commencing prior

to the date on which the first meeting of the members of the council of owners is held pursuant to Section 3.4(a) above. The first initial budget shall cover the period commencing with the recordation of this Declaration of Condominium and ending on December 31, 1999. In each initial budget the Declarant shall project all common expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the condominium and condominium regime, including any reasonable allowance for contingencies and reserves for repairs to or replacements of common elements. Immediately following the completion of the initial budget and following the appointment of the initial board of directors, the initial board shall make an initial common expense assessment based on the projected common expenses arising under the initial budget. Each owner (other than Declarant) will be required upon closing the purchase of its unit from Declarant to prepay common expense charges (calculated on the basis of such owner's percentage ownership interest and the initial common expense assessment) to the common expense fund for the period required by such owner's contract of purchase with the Declarant and, following the expiration of such prepayment period, such owner shall be required to pay such common expense charge (based on the initial budget) to the common expense fund monthly in advance during the opening period. Actual common expenses incurred during each month during the opening period shall be determined and charged to the common expense fund account of each owner (including the Declarant) based on such owner's percentage ownership interest during such month. If the common expense charge (based on the initial budget) paid or prepaid by any owner for any month during the opening period exceeds the actual common expenses charged to such owner's common expense fund account for such month as aforesaid, such owner shall receive a credit in his common expense fund account equal to such excess, which credit, at the discretion of Declarant, shall be retained in such owner's account to offset further common expenses charged to such owner's account for the opening period or reimbursed from time to time, in whole or in part, to such owner, however, any such credit remaining in any owner's account at the end of the opening period and after all common expenses charged or chargeable to such owner for the opening period have been paid, shall be reimbursed in full to such owner. If the amount of actual common expenses charged to an owner's (other than Declarant's) account for any month during the opening period exceeds the amount of the then available credit balance in such owner's account (such available credit balance being equal to the positive balance in such account reduced by any common expense charge prepayments attributable to future months' common expense charges), then such excess amount, to the extent not required to be paid by the Declarant pursuant to Section 4.2 hereof, shall be due and payable on or before ten (10) days after such owner is invoiced therefor. Declarant will be invoiced monthly during the opening period for (i) Declarant's share of common expenses actually incurred during each month during the opening period based on the Declarant's percentage ownership interest during such month and (ii) such amount, if any, as may be owing for such month by Declarant pursuant to Section 4.2 above, which amount shall be payable on or before ten (10) days after Declarant's receipt of such invoice. All prepaid items paid by Declarant will be prorated on a daily basis through the opening period and Declarant shall be reimbursed for any payments to the extent attributable to periods after the opening period.

(b) The fiscal year of the council of owners shall be the calendar year, unless another period is established by an amendment of the bylaws. *Ad valorem* taxes against the property constituting the condominium for the calendar year 1998 will be prorated between Declarant

and the council of owners as of the date of recordation of this declaration, with Declarant being responsible for taxes attributable to the period prior to such date and the council of owners being responsible for taxes attributable to the period subsequent to such date. The council of owners' share of *ad valorem* taxes attributable to each unit, for the year in which a unit is sold to an owner, will be prorated between Declarant and each owner in accordance with the contract of purchase between them.

(c) Commencing with the first full fiscal year after the first meeting of the members of the council of owners is held, the board of directors shall establish an annual budget in advance for each fiscal year and such budget shall project all common expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the condominium, including a reasonable allowance for contingencies and reserves for repairs to or replacements of common elements. The common expense charge for such year and the frequency of collection (e.g., monthly, quarterly, annually or otherwise) shall be established by the adoption of such annual budget by the board of directors. Copies of each such budget shall be delivered to each owner by such reasonable means as the board of directors may provide. In the event that the board of directors at any time determines that the common expense charges levied with respect to any fiscal year are or may prove to be insufficient to pay the common expense for such fiscal year, or in the event of casualty losses, condemnation losses or other events (including non-payment of common expense charges by some owners) which require additional funds be supplied for preservation and operation of the condominium, the board of directors shall have the authority at any time or from time to time to increase the amount of common expense charge or to levy such special assessment as it shall deem necessary for that purpose. Except as provided in Section 6.2 hereof to the contrary, no such increase in the common expense charges or a special assessment shall be levied without the prior resolution of the council of owners adopted by a majority vote of the council of owners, unless a greater number of votes is required by law; provided that the amount of common expense charges levied for any fiscal year may be increased from time to time during such fiscal year by the board of directors without obtaining any approval of the council of owners as long as the aggregate amount of such increases do not exceed an amount equal to ten percent (10%) of the initially levied common expense charges for such fiscal year.

(d) The failure or delay of the board of directors to prepare any annual budget or to deliver copies of such budget to each owner shall not constitute a waiver or release in any manner of any owner's obligation to pay common expense charges whenever the same shall be determined, and in the event of any delay or failure to establish any annual budget, each owner shall continue to pay common expense charges, in advance, at the rate and at the frequency established for the previous period until a new annual budget is established.

Section 4.4 Payment of Common Expense Charges and Special Assessments. Common expense charges shall be due and payable periodically (e.g., monthly, quarterly, annually or otherwise) in advance as established by the board of directors. Special assessments shall be payable on or before ten (10) days after owners are invoiced therefor. Payment of common expense charges and special assessments shall be in default if such common expense charges and special assessments, or any part thereof, are not paid to the council of owners on or before the due date for such payment. Common expense charges and special assessments in default shall

bear interest from the date of delinquency until paid at a per annum rate established from time to time by the board of directors, which rate (taking into account any late fees or delinquency charges) shall in no event exceed the maximum lawful rate of interest which may be charged. The board of directors shall also have the right, in its discretion, by appropriate resolution of the board of directors, to establish late fees or delinquency charges to be imposed in addition to the interest to which delinquent common expense charges and special assessments are subject. Each owner (whether one or more persons) shall be personally liable for the payment of all common expense charges and special assessments, interrupt and late fees (or delinquency charges) which may be levied against such owner and his unit pursuant to the provisions hereof.

Section 4.5 Enforcement. In order to secure the payment of the common expense charges and special assessments levied hereunder (including interest, late fees or delinquency charges), an express contractual lien shall be and is hereby imposed and impressed upon and reserved in and to each unit and assigned to the council of owners, without recourse, which lien shall be enforceable through appropriate judicial proceedings by the council of owners or any owner on behalf of the council of owners. To the extent allowed by law and as herein provided, said express liens shall be subordinate to all valid liens held by any person which may have heretofore or may hereafter lend money, provide financing, or agree to accept deferred payment for the purchase or improvement of or the payment of *ad valorem* taxes lawfully levied or assessed against any unit. No foreclosure of a superior lien upon a unit shall operate to cut off or extinguish said express contractual liens except as to those amounts secured thereby which become due and payable prior to such foreclosure upon the applicable unit, and the purchaser at any such foreclosure sale shall acquire title to such unit burdened by and subject to such express contractual lien as to all common expense charges and special assessments made with respect to such unit after such foreclosure. The collection of such common expense charges and/or special assessments may be enforced, in addition to any other applicable method at law or in equity, including foreclosure, by suit for a money judgment and, in the event of such suit, the expense incurred in collecting such delinquent assessment, including interest, costs and attorneys' fees shall be chargeable to and be a personal obligation of such defaulting owner. Except in the circumstances in which a good faith dispute exists as to the amount of the common expense charges or any special assessments for which an owner is liable, an owner in default in the payment of any common expense charge or any special assessment shall not be entitled to vote at any meeting of the council of owners so long as such default exists, and the vote of the unit so affected shall be excluded in all respects in determining whether a requisite number of votes has been cast in respect of the matter being voted upon.

Section 4.6 Common Expense Fund. The common expense charges and special assessments collected (together with any assessments of common expense paid by the Declarant pursuant to Sections 4.2 and 4.3(a), above) shall be paid into the common expense fund to be held and used for the benefit, directly or indirectly, of the condominium (or as provided in Sections 4.2 and 4.3(a) above); and such common expense fund may be expended by the board of directors for the purposes set forth herein, including, without limitation, providing for the enforcement of the provisions of this instrument, the bylaws of the council of owners and rules and regulations promulgated thereunder, for the maintenance, operation, repair, benefit and welfare of the common elements, and generally for doing those things necessary or desirable in the opinion of the board of directors to maintain or improve the condominium. The use of the

common expense fund for any of these purposes, except as provided herein, is permissive and not mandatory, and the decision of the board of directors with respect thereto shall be final, so long as made in good faith.

ARTICLE V
INSURANCE

Section 5.1 General Provisions. The board of directors shall have authority to and shall obtain insurance for the condominium as follows:

(a) Insurance on the building, including the units and the common elements, against loss or damage by fire and loss or damage by all risks using the form the board of directors elects to use that is designed for insuring condominium regimes in the State of Texas (with vandalism and malicious mischief endorsements), in amounts sufficient to prevent the council of owners or the owners from becoming a co-insurer within the terms of the applicable policies, but in any event in an amount not less than the full insurable replacement cost therefor. The "full insurable replacement cost" of the building, including the units and the common elements, shall be determined from time to time but not less often than once in a thirty-six-month period by the board of directors, and the board of directors shall have the authority, but shall not be required, to obtain and pay for an appraisal by a person or organization selected by the board of directors in making such determination. The cost of any and all such appraisals shall be borne by the common expense fund.

(b) Insurance on the building, including the units and common elements, against all loss or damage from explosion of boilers, heating apparatus, pressure vessels and pressure pipes installed in, on or about said building, without co-insurance clause, so long as available, in such amount as the board of directors may deem desirable.

(c) Comprehensive public liability and property damage insurance against claims for personal injury or death or property damage suffered by the public or any owner, the family, agent, employee, lessee or invitee of any owner, occurring in or as a result of the use, ownership, and maintenance of the private driveways, roadways, walkways and passageways, or the common elements adjoining the condominium. This public liability and property damage insurance shall afford protection to such limits as the board of directors shall deem desirable but shall in any case be no less than \$1,000,000.00 per occurrence, per year. Such liability and property damage insurance policy shall contain a cross-liability endorsement (if available) wherein the rights of the named insured(s) under the policy or policies shall not prejudice his, her or its action or actions against another named insured.

(d) Such workman's compensation insurance as may be necessary to comply with applicable laws.

(e) Employer's liability insurance in such amount as the board of directors may deem desirable.

(f) Fidelity bonds indemnifying the council of owners, the board of directors and the owners from loss of funds resulting from fraudulent or dishonest acts of any employee of the council of owners or of any other person handling the funds of the council of owners (including, in the Board's discretion, any managing agent) in such an amount as the board of directors may deem desirable.

(g) Such other insurance in such reasonable amounts as the board of directors shall deem desirable.

(h) The premiums for all insurance acquired on behalf of the council of owners or the owners pursuant to the provisions hereof shall be borne by the common expense fund.

(i) All insurance provided for under this Section 5.1 shall be effected under valid and enforceable policies issued by insurers of recognized responsibility authorized to do business in the State of Texas and shall:

(1) contain standard mortgagee clause endorsements in favor of the mortgages or mortgagees of each unit, if any, as their respective interest may appear;

(2) be without contribution with regard to any other such policies of insurance carried individually by any owner, whether such other insurance covers the unit owned by such owner and/or the additions and improvements made by such owner to his respective unit;

(3) provide such policy shall not be terminated for non-payment of premiums or for any other cause without at least thirty (30) days' prior written notice to the council of owners and at least ten (10) days' prior written notice to the mortgagee of each unit;

(4) provide that the insurer waives its right to subrogation under the policy with respect to liability arising out of an undivided interest in the common element or membership in the association;

(5) provide that no act or omission of a unit owner, unless within the scope of the unit owner's authority on behalf of the association, will void the policy or be a condition to coverage under the policy;

(6) with respect to policies of insurance of the character described in Subsection (a), (b) and (c) of this Section 5.1, name as insureds the managing agent, the council of owners and each owner in the percentage ownership interest established in Exhibit "B" to this declaration;

(7) contain an endorsement extending coverage to include the payment of common expense charges for units damaged during the period of reconstruction, with respect to all policies of insurance of the character described in Subsection (a) of this Section 5.1.

Section 5.2 Individual Insurance. Each owner shall be responsible for insurance, at his own cost and expense, on the contents of his, her or its unit and the furnishings, interior walls, appliances and all parts of the unit that are not common elements, and all personal property therein. Each owner shall be responsible for insurance, at his, her or its own cost and expense, on items of property, including vehicles, parked or stored in the parking spaces and/or the storage unit appurtenant to his unit. All policies of casualty insurance carried by each owner shall be without contribution with respect to the policies of casualty insurance obtained by the council of owners for the benefit of all the owners as above provided. Owners may carry individual policies of liability insurance insuring against the liability of such owners, at their own cost and expense.

ARTICLE VI

FIRE OR CASUALTY; REBUILDING

Section 6.1 Determination of Loss.

(a) In the event of a fire or other casualty causing damage or destruction to the building, the board of directors shall, within thirty (30) days thereafter, call a meeting of the council of owners to determine whether such loss comprises the whole or more than sixty-seven percent (67.0%) of all buildings (above the foundation). Unless otherwise provided by law, such determination shall be made by determining whether the cost of necessary repair or reconstruction would exceed sixty-seven percent (67.0%) of the cost of reconstructing all of the buildings as they existed prior to such fire or other casualty. In the event of fire or other casualty damage which comprises more than sixty-seven percent (67.0%) of all of the buildings (above the foundation) the board shall call a special meeting of the council of owners pursuant to Section 3.4(d), and upon a vote of approval from 80% or more of all owners eligible to vote at the special meeting, all accrued common expense charges (after deducting any unpaid common expense charges for which such owner may be liable) shall be delivered to the owners or their mortgagees, as their interest may appear, in proportion to the percentage ownership interests of each owner and the condominium Regime established by this Declaration of Condominium shall terminate. Upon such termination, the units and common elements shall be deemed to be regrouped and merged into a single estate owned in undivided interests by all owners as tenants-in-common in the percentage ownership interest previously owned by each owner in the

common elements. In such case, unless otherwise unanimously agreed upon by all owners, the board of directors, as soon as reasonably possible and as agent and attorney-in-fact for all owners, shall sell the condominium, in its then condition, free from the effect of this declaration, on terms satisfactory to the board of directors, and the net proceeds of such sale shall thereupon be distributed to the owners or their mortgagees, as their interest may appear, in proportion to the percentage ownership interest previously owned by each owner in the common elements. If the board of directors fails to consummate a sale pursuant to the preceding sentence within twenty-four (24) months after the destruction or damage occurs, then the board of directors shall (or if the board of directors does not, any owner or mortgagee may) record a sworn statement setting forth such facts and reciting that under the provision of this declaration the prohibition against judicial partition provided for in Section 11.2 below has determined and that judicial partition of the property may be obtained pursuant to the laws of the State of Texas.

(b) In the event that fire or other casualty damage comprises less than 67% of all the buildings or that less than 80% of all owners eligible to vote at the special meeting called to terminate this condominium regime, pursuant to the above Section 6.1(a), then the building or buildings shall be repaired and reconstructed substantially in accordance with the original plans and specifications.

Section 6.2 Rebuilding.

(a) In the event that it is determined that the damaged building shall be repaired and reconstructed, then all proceeds of insurance policies with respect to such fire or casualty, carried by the council of owners, shall be paid to a bank (selected by the board of directors), as trust, insured by the Federal Deposit Insurance Corporation (or its successors) and located in Montgomery County, Texas, to be held in trust for the benefit of the owners and their mortgagees as their respective interest may appear. The board of directors shall thereupon contract on behalf of all owners to repair or rebuild the damaged portions of all units, the building and common elements in accordance with the original plans and specifications therefor, and the funds held in trust by such depository bank shall be used for this purpose and disbursed by, or at the direction of, the board of directors in accordance with the terms of the contract to repair and rebuild.

(b) In the event such insurance proceeds are insufficient to provide for such repair, restoration or rebuilding, the building costs in excess of the insurance proceeds shall be assessed against all of the owners directly affected by the damage, in proportion to the percentage ownership interest assigned to their respective units in this declaration, or if such damage determination cannot reasonably be made, then such excess, to the extent permitted by the Texas Condominium Act, shall be assessed against all of the owners, in proportion to the percentage ownership interest of each owner, as set forth in this declaration. Such special assessments shall not require the consent of the members of the council of owners notwithstanding the provision of Section 4.3 hereof to the contrary. If any owner shall fail to pay such special assessments when due, the board of directors may make up the deficiency by payment from the common expense fund, which payment shall in no way release the owner who has failed to make payment of such special assessment from liability therefor. Such assessments shall be enforceable as provided for other special assessments herein.

Notwithstanding the terms of Section 10.1 hereof, the provisions of this Section may be changed only by unanimous resolution of the owners and all mortgagees, adopted subsequent to the date on which such fire or casualty loss occurs, but in the event of such change an appropriate amendment in writing shall be executed and acknowledged by all owners and mortgagees and placed in the record in the Condominium Records of the County Clerk of Montgomery County, Texas.

Section 6.3 Repair of Units. Each owner shall be responsible for the reconstruction, repair and replacement of all personal property and other property not a common element (i) in or part of his unit, including, but not limited, to the floor coverings, wall coverings, interior walls, furniture, furnishings, decorative light fixtures and appliances located therein and/or (ii) parked or stored in the parking spaces or storage unit appurtenant to his unit.

Section 6.4 Indemnity of Council of owners. Each owner shall be responsible for the cost of repair and rebuilding not otherwise covered by insurance carried by the council of owners and caused by his negligence or misuse or by the negligence or misuse of his immediate family, and his or her agents or employees in the course of their duties, and shall, to the extent not covered by insurance collected by the council of owners, indemnify the council of owners and all owners against any such costs of reconstruction, repair and replacement of any portion of the building.

ARTICLE VII

EMINENT DOMAIN

Section 7.1 General Provisions. If all or any part of the condominium is taken or threatened to be taken by eminent domain or by power in the nature of eminent domain (whether permanent or temporary), the board of directors and each owner shall be entitled to participate in proceedings incident thereto at their respective expense. The board of directors shall give notice of the existence of such proceeding to all owners and to all mortgagees known to the board of directors to have an interest in any unit. The expense of participation in such proceedings by the board of directors shall be borne by the common expense fund. The board of directors is specifically authorized to obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses and other persons as the board of directors, in its discretion, deems necessary or advisable to aid or advise it in matters relating to such proceedings. All damages or awards for any such taking shall be deposited with the board of directors, acting as trustee, and such damages or awards shall be applied or paid as provided herein. Before any damages or awards are paid or disbursed pursuant to this Section 7.1, all expenses incurred in connection with such taking shall be paid as authorized in this Section 7.1. Any payment or distribution of net sales proceeds shall be made only after deducting sales commissions, attorneys fees, recording fees and other costs of sale or closing.

Section 7.2 Taking of Common Elements. In the event that an action in eminent domain is brought to condemn a portion of the common elements (together with or apart from any unit), the board of directors, in addition to the general powers set out herein, shall have the sole authority to determine whether to defend or resist any such proceeding, to make any

settlement with respect thereto, or to convey such property to the condemning authority in lieu of such condemnation proceeding. With respect to any taking of common elements only, all damages and awards shall be determined for such taking as a whole and not for each owner's interest therein. After the damages or awards for such taking are determined, the net proceeds thereof shall be paid to each owner in proportion to his percentage ownership interest in the common element. The board of directors may, if it deems it advisable, call a meeting of the owners, at which meeting the owners, by a majority vote of the council of owners, shall decide whether to replace or restore as far as possible the common element so taken or damaged. In the event it is determined that such common elements should be replaced or restored by obtaining other property or building additional structures, this declaration and the plats attached hereto as Exhibits C and D shall be duly amended by instrument executed by the board of directors on behalf of the owners.

Section 7.3 Taking of Units. In the event that such eminent domain or condemnation proceeding results in the taking of or damage to one or more, but less than two thirds (2/3rds) of the total number of units, then the damages and awards for such taking shall be determined for each unit and the following shall apply:

(a) The board of directors shall determine which of the units damaged by such taking may be made tenantable for the purposes set forth in this declaration, taking into account the nature of this condominium, the reduced size unit so damaged and applicable laws, ordinances and building codes.

(b) The board of directors shall determine whether it is reasonably practicable and lawfully permissible to operate the remaining units of the condominium, including those damaged units which may be made tenantable, as a condominium in the manner provided in this declaration.

(c) In the event the board of directors determines that it is practicable and lawful to operate the remaining units of the condominium, then the net proceeds of all damage awards will be allocated to the owners of the units that are untenable based on the percentage ownership interest of each owner's untenable interest relative to all interests rendered untenable as a result of the condemnation or eminent domain proceeding. The payments thus received by the owners of the untenable units shall serve to compensate each unit owner for the lost interest in the unit and the common elements associated with that unit or untenable portion of the unit. Unless the decree provides otherwise, on acquisition, the common elements associated with all units rendered untenable shall be reallocated to the remaining units in proportion to the remaining percentage ownership interests, and the board of directors shall execute and record an amendment to the declaration reflecting the reallocations. Any units not taken, but rendered untenable, shall become a common element.

(d) In the event that the board of directors determines that it is not reasonably practicable to operate the undamaged units and the damaged units which can be made tenantable as a condominium, then the board of directors

shall call a special meeting of the council of owners pursuant to Section 3.4(d) and upon a vote of approval from 80% or more of all owners eligible to vote at the special meeting, the net proceeds of all damages and awards shall be paid to the accounts of the owners of the units, as provided above in Section 7.3(c), in proportion to each owner's percentage ownership interests in the common elements, and this condominium regime shall terminate upon such payment. Upon such termination, the units and the common elements shall be deemed to be regrouped and merged into a single estate owned jointly in undivided interests by all owners, as tenants-in-common, in the percentage ownership interests previously owned by each owner in the common elements. In such case, unless otherwise unanimously agreed upon by all owners, the board of directors, as soon as reasonably possible and as agent and attorney-in-fact for all owners, shall sell the condominium, in its then condition, free from the effect of this declaration, on terms satisfactory to the board of directors, and the net proceeds of such sale shall thereupon be distributed to the owners or their mortgagees, as their interests may appear, in proportion to the percentage ownership interest previously owned by each owner in the common elements. If the board of directors fails to consummate a sale pursuant to the preceding sentence within twenty-four (24) months after the taking occurs, then the board of directors shall (or if the board of directors does not, any owner or mortgagee may) record a sworn statement setting forth such facts and reciting that under the provisions of this declaration the prohibition against judicial partition provided for in Section 11.2 below has terminated and that judicial partition of the property may be obtained pursuant to the laws of the State of Texas.

(e) In the event less than 80% of all eligible owners vote to terminate this condominium regime at the special meeting called pursuant to the above Section 7.3(d), the proceeds from the damage award shall be paid out and the common elements shall be redistributed pursuant to provision 7.3(c).

Section 7.4 Payment of Awards and Damages. Any damages or awards provided in this Article to be paid to or for the account of any owner by the board of directors, acting as trustee, shall be applied first to the payment of any taxes or assessments by governmental authorities owing with respect to that unit; secondly, to amounts due under any mortgage (in the order of their lien priority, if more than one); thirdly, to the payment of any common expense charges or special assessments charged to or made against the unit and unpaid; and finally, to the owner of such unit.

ARTICLE VIII

OBSOLESCENCE

Section 8.1 Determination of Non-Obsolescence and Decision to Renovate. Owners representing aggregate percentage ownership interests of at least eighty percent (80%) or such greater percentage as may be required by law of the condominium may agree that the common elements are not obsolete and that the same can and should be renewed or reconstructed. In

such instance, the expenses thereof shall be borne by the common expense fund and a special assessment may be assessed therefor; provided, however, that any owner not agreeing to such renewal or reconstruction may give written notice to the board of directors within ten (10) days following such decision to renovate that such owner shall sell his unit to the council of owners, for a cash price equal to the fair market value thereof. If such owner and the board of directors, acting as agent of and on behalf of the council of owners, can agree on the fair market value therefor, then such sale shall be consummated (by payment of the purchase price in cash) within thirty (30) days after owner and the board of directors agree upon such value. If such owner and the board of directors are unable to agree upon the price thereof, the date when either party notifies the other that either is unable to agree with the other as to such price or terms shall be the "commencement date," from which all periods of time mentioned herein shall be measured. Within ten (10) days after the commencement date, the owner and the board of directors each shall designate in writing (and give notice of such designation to the other party) one appraiser, each of which appraisers shall be a member of the Montgomery County Board of Realtors or the Harris County Board of Realtors and shall have been active in the sale of business and professional condominium units in the Montgomery County, Texas, area for a period of at least three (3) years prior thereto. If either party fails to make such designation within the aforesaid ten (10)-day period, then the appraiser designated by the other party shall, within five (5) days after the expiration of such ten (10)-day period, appoint another appraiser, who shall likewise be a member of the Montgomery County Board of Realtors or the Harris County Board of Realtors and shall have been active in the sale of business and professional condominiums for a period of not less than three (3) years prior thereto. If the two designated by the owner and the board of directors (or selected pursuant to the provisions of the preceding sentence) are unable to agree upon the price of such unit within twenty (20) days after the date on which the last such appraiser was appointed, then they shall appoint a third appraiser, being subject to the same qualifications as herein set forth for the first two (2) appraisers. If the two (2) appraisers are unable to agree upon a third appraiser within five (5) days after the expiration of said twenty (20)-day period, then either the owner or the board of directors, on behalf of both, may request such appointment of the third appraiser by the then Senior Judge (in length of service) of the United States District Court for the then Judicial District in which the property is situated. In the event of the failure, refusal or inability of any appraiser so appointed to act, a new appraiser shall be appointed in his stead, which appointment shall be made in the same manner as hereinbefore provided for the appointment of such appraiser so failing, refusing or so unable to act. Each party shall pay the fees and expenses of the original appraiser (and any successor) appointed by or on behalf of such party; the fees and expenses of the third appraiser, and all other expenses, if any, shall be borne equally by the owner and the board of directors (which expenses incurred by the board of directors, as aforesaid, shall be paid out of the common expense fund). A decision joined in by two of the three appraiser shall be the decision of the appraisers. If no two appraisers agree, then the average of the decision of all appraisers shall be the decision of the appraisers. After reaching a decision, the appraisers shall give written notice thereof to the owner and the board of directors, whereupon the sale of such unit shall be consummated at such price payable in cash within fifteen (15) days thereafter.

Section 8.2 Determination of Obsolescence and Decision to Sell. Owners representing aggregate percentage ownership interests of at least eighty percent (80%), or such greater percentage as may be required by law of the condominium, may agree that the common

elements are obsolete and that the entire condominium should be sold. In such instance, the board of directors shall forthwith file and record with the County Clerk of Montgomery County, Texas, a notice setting forth such fact or facts, and upon the filing of such notice, the entire condominium shall be sold by the board of directors as attorney-in-fact, for all owners, free and clear of the provisions contained in this declaration, and upon such sale the condominium regime shall be terminated. The net sales proceeds (after deducting sales commissions, attorneys' fees, recording fees and other costs of sale or closing) shall be apportioned between the owners on the basis of each owner's percentage ownership interest in the common elements, such apportioned proceeds shall be paid into separate accounts, each such account representing one unit. Each such account shall be in the name of the council of owners, and shall be further identified by the number of the unit and the name of the owner. From each separate account, the board of directors, as attorney-in-fact, shall use and disburse the total amount (of each) of such funds, without contribution from one fund to another, and such proceeds shall be disbursed first to the payment of any taxes or assessments by governmental authorities owing with respect to that unit; secondly, to amounts due under any mortgage (in the order of their lien priority, if more than one); thirdly, to the payment of any common expense charges or special assessments charged to or made against the unit and unpaid; and finally, to the owner of such unit.

ARTICLE IX

TRANSFER OF UNIT; RIGHT OF FIRST REFUSAL

Section 9.1 Right of first refusal. Except as provided below, should the owner of any unit desire to lease (which term shall be deemed to include all types of lease, rental or other occupancy agreements) or sell such unit, the council of owners is hereby given and granted the right of first refusal to lease or purchase such unit, as the case may be, on the terms and conditions herein stated, and no owner of a unit shall lease or sell the same to any party without first giving the board of directors notice in writing of such proposed lease or sale as herein provided and giving the council of owners the opportunity to determine whether it will exercise the right of first refusal to lease or purchase said unit on the same terms and conditions as those contained in any *bona fide* written offer which the owner of such unit may have received for the lease or purchase of his said unit. Any leasing or sale of a unit without compliance with the terms hereof shall be void and of no force or effect and shall confer no title or interest in a unit to the purported purchaser or lessee.

Section 9.2 Notice and Exercise of Option. Whenever the owner of any unit has received a *bona fide* offer to lease or purchase his unit and desires to accept such *bona fide* offer, the owner of such unit shall give the board of directors written notice of his desire to accept such offer for the lease or purchase of his unit, stating the name, address, business, occupation or employment of offeror, and furnish the board of directors an executed copy of a *bona fide* written offer for said lease or purchase which has been executed by the proposed buyer or lessee. If the council of owners desires to exercise its option to lease or purchase said unit on the same terms and conditions as are contained in said offer, then the board of directors shall notify the owner of said unit desiring to lease or sell the same of the exercise of the council of owners' motion, such notice to be in writing and mailed by registered or certified mail to said owner

within twenty-one (21) days from the date of receipt by the board of directors of the owner's notice to said board of directors as hereinabove required, or written notice may be personally delivered to said owner within said period. If the council of owners has elected to lease or purchase said unit, then, within a reasonable time after the giving of notice to the owner of such unit of its election to lease or purchase said unit, the council of owners shall execute a lease or contract to purchase, and shall consummate such contract to purchase on all the same terms and conditions as those contained in said *bona fide* offer. When any owner of a unit has notified the board of directors as above provided of his desire to lease or sell his unit, such owner shall be free to consummate such lease or sale of his unit unless, within twenty-one (21) days after receipt of owner's notice by the board of directors, the board of directors has notified said owner of its intention to exercise the council of owners' right of first refusal as set out herein. In the event the council of owners elects not to exercise its right of first refusal, the owner of said unit shall be free to lease or sell said unit only to the party and only upon the terms described in the required notice. In the event that the proposed transaction with regard to which the council of owners has declined to exercise its right of first refusal is not consummated within sixty (60) days after the date of the giving of the required notice, the owner of such unit must again give notice to the board of directors and the council of owners shall again have a right of first refusal as herein provided. The right of first refusal to lease or purchase herein set forth shall be a continuing right and the non-exercise of the right in any instance shall not be deemed a waiver thereof in any other instance or with respect to any other owner or lessee. Any notice by the board of directors to an owner given pursuant to this Article IX shall be deemed to have been given by the board of directors and received by such owner (i) when such notice is placed in the mail distribution facility of such owner, if such facilities are present in the building, (ii) when such notice is deposited in the United States mail postage prepaid, as certified or registered mail, addressed to such owner at his unit or to such other address within the United States of America as the owner may have given in writing to the board of directors for the purpose of service of notices, or (iii) when actually received by such owner. Elections and determinations of the council of owners under this Article IX shall be made by the board of directors, unless otherwise made by a majority vote of the council of owners.

Section 9.3 Purchase by Nominee of Council of Owners. If the council of owners shall so elect, it may cause its right of refusal to lease or purchase any unit to be exercised in its name for itself or for a party approved by the council of owners, or the board of directors may elect to cause said unit to be leased or purchased directly in the name of a party approved by it, which party shall enter into a lease or contract to purchase and consummate such contract to purchase in the same manner as would the council of owners upon its exercise of said right of first refusal to lease or purchase said unit.

Section 9.4 Terms of Lease. Notwithstanding that the board of directors may have declined to exercise its right of first refusal with respect to any leasing of any unit, no unit shall be leased unless the terms and provisions of such lease specifically provide that such unit may not be subject to or be occupied by any business entity or persons other than those named in the required notice provided for hereinabove without the prior written approval of the board of directors being first had and obtained, and any lease shall provide that the lessee shall comply with and abide by all of the restrictions pertaining to the use of units and the common elements set forth in this declaration, the bylaws, rules and regulations promulgated hereunder and the

laws of the State of Texas now or hereafter established governing the use of such units and the common elements. Such lease shall be deemed to contain, whether in fact it does so contain, a provision to the effect that should any lessee or occupant not comply with such provision stated in the preceding sentence, then the board of directors shall be given the right to cancel and terminate such lease, without any obligation or liability imposed upon the owner, and for such purpose, the board of directors shall be regarded as the owner's agent and attorney-in-fact fully authorized to take such steps as may be necessary to effect the cancellation and termination of such lease and the eviction of the occupants of such unit claiming by, through or under such terminated lease.

Section 9.5 Exceptions to Right of First Refusal. The right of first refusal herein granted to the council of owners shall not apply to or be operative with respect to (i) transfers of ownership of any unit by one spouse to or for the benefit of the other spouse and/or members of the owner's immediate family (which term includes descendants, parents and siblings of the owner and the spouses thereof), (ii) transfers by one owner to another owner, (iii) transfers provided for in Sections 9.3 and 11.3 hereof; any foreclosure or judicial sale of a unit, (v) the sale or leasing of a unit by the council of owners after the council of owners has acquired such unit or a leasehold estate therein pursuant to the terms of this Article, (vi) to any conveyance made by the owner of a unit to a *bona fide* mortgagee in lieu of foreclosure, provided that the title of a purchaser from such mortgagee or a purchaser whose title was obtained at any foreclosure or judicial sale or deed in lieu thereof shall thereafter be subject to the terms and provisions of this Article with respect to any further lease or sale of any such unit, (vii) to any lease, rental or occupancy arrangement for any unit, the owner of which is a corporation, limited partnership, trust or other legal entity other than a natural person or persons for use by an affiliate of said corporation, limited partnership, trust or other legal entity, provided that such affiliate is engaged in substantial business endeavors other than the renting or leasing of units in this condominium, (viii) the creation of a security interest in or mortgage encumbering a unit whereby a bank, insurance company, savings and loan association or other similar financial institution becomes the mortgagee, or (ix) notwithstanding any provision hereof to the contrary, the right of first refusal granted to the council of owners herein shall not be applicable for the lease, sublease or sale of any unit to or by Declarant.

Section 9.6. Application of Proceeds of Sale. Upon the sale or conveyance of a unit by an owner other than the Declarant, the proceeds of such sale or conveyance shall be applied as follows:

- (a) First, to assessments, liens and charges in favor of the State and any political subdivision thereof for taxes past due and unpaid on the unit;
- (b) Secondly, to amounts due under any mortgage on any such unit in the order of the priority of their respective mortgage liens;
- (c) Thirdly, to the payment of all unpaid common expense charges and special assessments against the unit and the owner thereof; and
- (d) Fourthly, to the owner of such unit.

If such unpaid common expense charges or special assessments are not paid or collected at the time of sale or conveyance of a unit, the grantee of such sale or conveyance shall, subject to Section 4.5 hereof, be jointly and severally liable with the selling owner for all unpaid common expense charges and special assessments against the unit up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the selling owner the amounts paid by the grantee therefor.

ARTICLE X

AMENDMENT OF DECLARATION, BYLAWS AND RULES AND REGULATIONS

Section 10.1 Amendment of Declaration. Except as otherwise provided herein or by law and except for the designation of the percentage ownership interest which pertains to each unit, the provisions of this declaration may be amended only by an instrument in writing signed and acknowledged by an aggregate number of owners having not less than sixty-seven percent (67.0%) of the total votes of all units, weighted entitled to vote on such amendment. Except in the event of redistribution of percentage ownership interests in connection with the occurrence of a fire, casualty or eminent domain taking, in order to amend the allocation of the percentage ownership interests in the common element appertaining to any unit, it shall be necessary not only that an aggregate number of owners having not less than sixty-seven percent (67.0%) of the votes of all units, weighted in accordance with their percentage ownership interest and entitled to vote on such amendment execute and acknowledge an instrument in writing, but, in addition, the owners of those units whose percentage ownership interests are amended by such amendment must likewise join in the execution and acknowledgment of such amendment as well as any person who holds a mortgage on the unit or units affected thereby.

Section 10.2 Amendment of Bylaws. The bylaws declaration, may be amended from time to time by the affirmative vote of sixty-seven percent (67.0%) of the votes entitled to be cast by the members of the council of owners who are present, or are represented by proxy, at a meeting of the council of owners at which quorum is present.

Section 10.3. Amendment of Rules and Regulations. The rules and regulations shall be originally promulgated by Declarant and may be amended from time to time by the board of directors, as set forth in the bylaws.

Section 10.4 No Effect on Mortgagees Without Consent. No amendment to this Declaration of Condominium, the bylaws, or the rules and regulations shall affect, diminish, or impair the validity, enforceability rights, or interests of any *bona fide* mortgagee under the mortgage held by such mortgagee provided such mortgage was duly executed, delivered and filed for record in the Office of the County Clerk of Montgomery County, Texas, prior to the adoption of such amendment.

ARTICLE XI

MISCELLANEOUS

Section 11.1 Estoppel Certificate. Any mortgagee and any prospective purchaser of a unit shall be entitled, upon written request therefor, to a statement from the board of directors setting forth the amount of any unpaid common expense charges or special assessments not paid by the owner of a unit in which such prospective purchaser or mortgagee has an interest. Any prospective purchaser shall not be liable for nor shall the unit conveyed be subject to the lien provided for in this Declaration of Condominium for any unpaid common expense charges or special assessments made by the board of directors against the particular unit involved in excess of the amount set forth in such statement. Any such purchaser, however, shall be liable for any special assessments or common expense charges becoming due after the date of any such statement.

Section 11.2 No Partition. The common elements shall remain undivided and shall not be subject to an action for partition or division of the co-ownership thereof so long as it remains suitable for a condominium regime, and, in any event, all mortgages encumbering an interest in the common elements must be paid in full prior to bringing any action for partition or the consent of all holders of such mortgages must be obtained; provided, however, that if any unit shall be owned by two (2) or more owners as tenants-in-common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition of such unit as between such co-tenants.

Sections 11.3 Alteration of Boundaries of Units.

(a) If one person, firm or entity (including Declarant) is the owner of all or part of two (2) units which are adjoining, whether adjoining vertically (above and below each other) or horizontally (on the same floor of the building) or if two (2) owners of adjoining units agree, then such owner or owner shall have the right to remove all or any part of any intervening partition or floor or to create doorways or other openings in such partition or floor, notwithstanding the fact that such partition or floor may in whole or in part be a common element, so long as no portion of any load bearing wall or load bearing column or structural slab is weakened or removed and no portion of any common element other than that partition or floor is damaged, destroyed or endangered. In any such case, the owner or owners involved may relocate the boundaries between adjoining units by creating an appropriate instrument to amend this condominium declaration and executing it. The instrument, in order to be binding, shall be joined by the president of the council of owners (and the mortgagees, if any, of such units) and filed for record in the Condominium Records of the Office to the County Clerk of Montgomery County, Texas. The instrument of amendment (i) shall show the boundaries between those units which are being relocated, (ii) shall receipt the occurrence of any conveyancing between the owners of such adjacent units, and (iii) shall specify any reasonable reallocation as agreed upon between the owners of the units involved of the aggregate percentage ownership interest in the common elements pertaining to those units. Such plats and floor plans as may be necessary to show the altered boundaries between the units involved shall be certified as to their accuracy by a registered architect or engineer. Any owners taking any of the actions

permitted by this subsection 11.3(a) shall do so at their sole cost, risk and expense and shall agree, in form satisfactory, to the board of directors, to indemnify and hold all other owners harmless from any cost, expense, damage or liability arising or occurring as a result thereof, which obligation shall be secured or bonded in such amount and form as the board of directors shall determine any amendment made to the declaration pursuant to this Section 11.3(a) shall not require the approval of the owners as otherwise required by Section 10.1.

(b) At any time prior to election of the first board of directors, the Declarant shall have the right, at its option and sole cost and expense, without the consent of other owners of the representative or representative of any mortgagee, to (i) make alterations, additions or improvements in, to and upon units owned by the declaration (hereinafter called "Declarant owned units" or "Declarant-owned units"), whether structural or non-structural, interior or exterior, ordinary or extraordinary; (ii) change the layout or number of rooms in any Declarant-owned unit; (iii) change or save and/or renumber Declarant-owned units (including those resulting from such subdivision or otherwise) into one or more units, combining separate Declarant-owned units (including those resulting from such subdivision or otherwise) into one or more units, altering the boundary walls between any Declarant-owned units, or otherwise; and (iv) reapportion among the Declarant-owned units the appurtenant interest allocated to such unit and amend the declaration appropriately pursuant to Section 11.3(a) with regard to the units affected by such change in size or number pursuant to the preceding clause (iii), provided, however, that the percentage ownership interest in the common elements of any unit (other than Declarant-owned units) shall not be changed by reason thereof unless the owners and mortgagees, if any, of such units shall consent thereto and, provided further, that the Declarant shall comply with all laws applicable thereto and shall agree to hold all other owners harmless from any liability arising therefrom. Notwithstanding the terms of Section 10.1 hereof, the provisions of this section may not be amended or deleted without the prior written consent of the Declarant. The Declarant shall also have authority to make improvements to the common elements, at its sole option, cost and expense, without the prior consent of the board of directors, other owners, or the representative or representatives of the holder of any mortgages as any unit.

Section 11.5 Enforcement. The board of directors or any owner shall have the right to enforce, by any proceedings at law or in equity, all terms and provisions hereof. Failure by the board of directors or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed to be a waiver of the right to enforce such covenant to restriction thereafter.

Section 11.6 Conflict in Instruments. In the event of conflict between the terms and provisions hereof and the terms and provision of the articles of incorporation of the council of owners, the bylaws, the rules and regulations or applicable law, or between any of them, the bylaws shall control over the rules and regulations, the articles of incorporation shall control over the bylaws and the rules and regulations, this declaration shall control over the articles of incorporation, the bylaws and the rules and regulations, and applicable laws shall control over all the foregoing. In the event of any conflict between the terms and provisions contained in the body of this declaration and any exhibit hereto, the body of this declaration shall control.

Section 11.7 Severability. The provisions hereof shall be deemed independent and several, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

Section 11.8 Power of Attorney. The power of attorney granted in Sections 6.1, 7.3, 8.2, 9.4 and elsewhere herein by the owners to the board of directors shall be deemed to be coupled with an interest, shall be irrevocable unless amended pursuant to Section 10.1 hereof, shall survive the death, dissolution, insanity or other incapacity of any owners, and shall be binding upon each owner's heirs, successors and assigns.

Section 11.10 Time of the Essence. Time is and shall be of the essence of this declaration and of each term and provision hereof.

Section 11.11 GOVERNING LAW. THIS DECLARATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS AS THE SAME FROM TIME TO TIME EXIST.

Section 11.12 Number and Gender. Words of any gender used in this instrument shall be held and construed to include any other gender, and words singular shall be held to include the plural, unless the context otherwise requires.

ARTICLE XII

SPECIAL RIGHTS OF DECLARANT

Section 12.1 In addition to the other rights reserved by the Declarant in this declaration, Declarant hereby reserves, for a period of five (5) years from and after the date hereof, the right to exercise certain "special Declarant rights" (as such term is defined in the Texas Uniform Condominium Act, as amended from time to time), including, without limitation, the rights to: (i) subdivide units; (ii) maintain sales, management and leasing offices, signs advertising the condominium and models; (iii) make alterations, additions or improvements, whether structural or non-structural, interior or exterior, ordinary or extraordinary, in, to and upon the units owned by the Declarant, at the sole cost and expense of the Declarant; and (iv) if appropriate, reapportion among the units, the percentage ownership interests in an equitable manner, subject to the provisions of Section 10.1 hereof.

IN WITNESS WHEREOF, Declarant has executed this instrument to be effective as of March 22, 1999.

BOROUGH PARK DEVELOPERS, LTD.
By: DAVID ANTONIONO INVESTMENTS, INC.
A General Partner

By: [Signature]
Name: DAVID M Antoniono
Title: PRES

By: ADVANTAGE HOME MORTGAGE CORP.,
A General Partner

By: [Signature]
Name: John R. Lewis
Title: President

Schedule of Attachments:

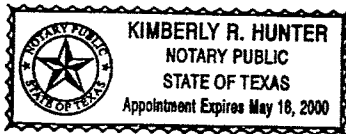
- Exhibit A, as referred to in the declaration—Property Description
- Exhibit B, as referred to in the declaration—Percentages of Ownership
- Exhibit C, as referred to in the declaration—Location of the Buildings
- Exhibit C, Schedule I, as referred to in the declaration—Compressor Pad Information
- Exhibit D, as referred to in the declaration—Description of the Units and Common Elements
- Exhibits D-1 through D-5, as referred to in the declaration, Field Note Descriptions of Units 105, 106, 107, 108 and 109

STATE OF TEXAS §
 §
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on the 22nd day of March, 1999, by DAVID M. ANTONIONO, the President of DAVID ANTONIONO INVESTMENTS, INC., a Texas corporation acting as a general partner of BOROUGH PARK DEVELOPERS, LTD., a Texas limited partnership, on behalf of said corporation acting on behalf of said limited partnership.

[Signature]
Notary Public, State of Texas

Name: Kimberly R Hunter
My Commission Expires: 5-16-2000



STATE OF TEXAS §
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on the 22nd day of March, 1999, by JOHN R. LEWIS, the President of ADVANTAGE HOME MORTGAGE, INC., a Texas corporation, on behalf of BOROUGH PARK DEVELOPERS, LTD., a Texas limited partnership, on behalf of said corporation acting on behalf of said limited partnership.

[Signature]
Notary Public, State of Texas

RECORDER'S MEMORANDUM
Notary Seal Is Missing

THE STATE OF TEXAS §
COUNTY OF MONTGOMERY §

The undersigned, OMNI BANK, N.A., the owner and holder of liens against the 0.869 acre parcel described in part one of Exhibit A, hereby ratifies and confirms the Condominium Regime created in this Declaration of Condominium and the Declaration of Condominium and hereby in all things subordinates all liens and security interests -- including, without limitation, that one certain Deed of Trust, Security Agreement and Financing Statement dated June 23, 1998 and given by Borough Park Developers, Ltd. to Chesley N. Brooks, Jr., as Trustee for OMNI BANK, N.A., recorded in the Official Public Records of Real Property of Montgomery County, Texas, under the Montgomery County Clerk's File Sequencing Number 9847308, Film Code Nos. 400-00-1624 through 1639 -- held by the undersigned to the Condominium Regime herein granted and conveyed and this Declaration of Condominium.

OMNI BANK, N.A.

By: *[Signature]*
Name: Julie Cripe
Title: Executive Vice President

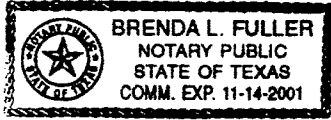
THE STATE OF TEXAS

COUNTY OF MONTGOMERY

§
§
§

This instrument was executed before me on this the 23 day of March, 1999, by Julie Cripe, a Executive Vice President of OMNI BANK, N.A., a national banking association, on behalf of said national banking association.

Notary Public, State of Texas



Name: Brenda L. Fuller
My Commission Expires: _____

511-00-2244

EXHIBIT "A"

PROPERTY DESCRIPTION

**SURVEY PLAT AND METES AND BOUNDS DESCRIPTION
0.805 ACRES (35,084 SQUARE FEET)
BOROUGH PARK SUBDIVISION, BLOCK 3
MONTGOMERY COUNTY, TEXAS**

CONSISTING OF TWO SCHEDULES AS FOLLOWS

SCHEDULE ONE

COPY OF SURVEY PLAT OF PROPERTY

SCHEDULE TWO

METES AND BOUNDS DESCRIPTION OF PROPERTY

EXHIBIT "A"— DESCRIPTION OF PROPERTY

1226\DOCUMENT\DECLARE 9.DOC

EXHIBIT "A"

SCHEDULE ONE

COPY OF SURVEY PLAT OF PROPERTY

[THE ATTACHED SURVEY PLAT DESCRIBES TWO PARCELS OF REAL PROPERTY, A 0.805 ACRE PARCEL AND A 0.869 ACRE PARCEL. THE "PROPERTY," DESCRIBED IN THIS "DECLARATION," IS THE 0.805 ACRE PARCEL DESCRIBED ON THE FOLLOWING COPY OF THE SURVEY PLAT WHICH IS SCHEDULE ONE TO EXHIBIT "A" OF THE "DECLARATION." THE 0.805 ACRE PARCEL IS THE SOUTHERLY PARCEL ON THE FOLLOWING COPY OF THE SURVEY PLAT, WHICH IS LABELED ON SAID SURVEY PLAT AS "TRACT 1." THE 0.869 ACRE PARCEL IDENTIFIED ON THE FOLLOWING COPY OF THE SURVEY PLAT AS "TRACT 2" IS NOT PART OF THE CONDOMINIUM REGIME CREATED BY THIS "DECLARATION."]

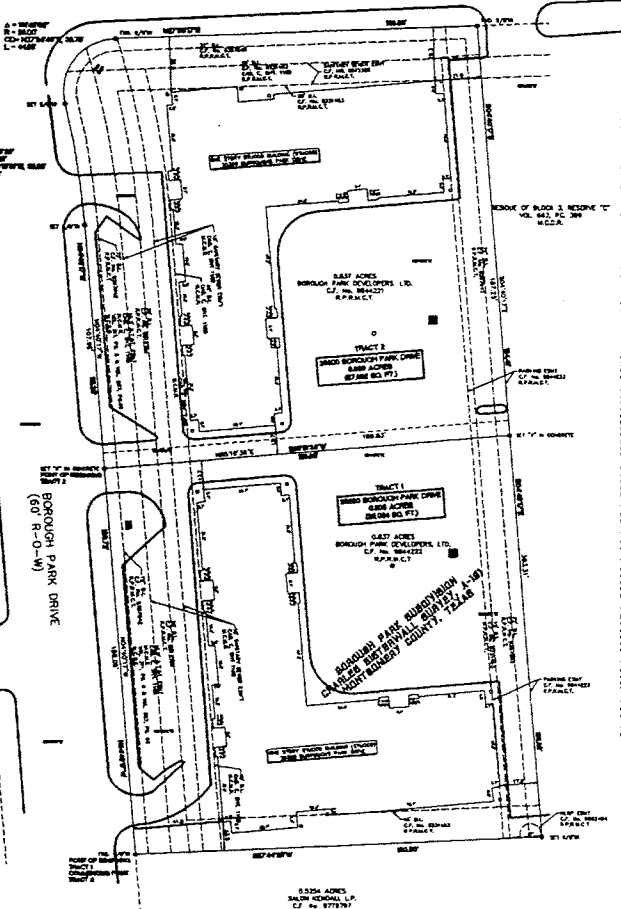
EXHIBIT "A"— SCHEDULE ONE - COPY OF SURVEY PLAT OF PROPERTY

1226\DOCUMENT\DECLARE 9.DOC

511-00-2246



BRIAR ROCK ROAD
(60' R-O-W)



NOTE 1:
 THIS SURVEY REPRESENTS THE BOUNDARY SURVEY FOR TRACT 1 AND TRACT 2, MONTGOMERY COUNTY, TEXAS. THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING, MONTGOMERY COUNTY, TEXAS.

NOTE 2:
 THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING, MONTGOMERY COUNTY, TEXAS.

NOTE 3:
 THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING, MONTGOMERY COUNTY, TEXAS.

NOTE 4:
 THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING, MONTGOMERY COUNTY, TEXAS.

NOTE 5:
 THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING, MONTGOMERY COUNTY, TEXAS.

NOTE 6:
 THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING, MONTGOMERY COUNTY, TEXAS.

NOTE 7:
 THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING, MONTGOMERY COUNTY, TEXAS.

NOTE 8:
 THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING, MONTGOMERY COUNTY, TEXAS.

NOTE 9:
 THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING, MONTGOMERY COUNTY, TEXAS.

NOTE 10:
 THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE BOARD OF SURVEYING AND MAPPING, MONTGOMERY COUNTY, TEXAS.

ITEM	STATUS
POCKET	---
INDEX	---
PLAN	---
ELECTRIC	---
WATER	---
SEWER	---
ROAD	---
RAILROAD	---
UTILITY	---
WATER	---
SEWER	---
ROAD	---
RAILROAD	---
UTILITY	---
WATER	---
SEWER	---
ROAD	---
RAILROAD	---
UTILITY	---

- The survey was made in accordance with the rules and regulations of the Board of Surveying and Mapping, Montgomery County, Texas.
- The professional seal of the surveyor is placed on this plan in accordance with the rules and regulations of the Board of Surveying and Mapping, Montgomery County, Texas.
- The survey was made by the surveyor in accordance with the rules and regulations of the Board of Surveying and Mapping, Montgomery County, Texas.
- No measurements were shown on this survey.
- The survey was made by the surveyor in accordance with the rules and regulations of the Board of Surveying and Mapping, Montgomery County, Texas.
- The survey was made by the surveyor in accordance with the rules and regulations of the Board of Surveying and Mapping, Montgomery County, Texas.
- The survey was made by the surveyor in accordance with the rules and regulations of the Board of Surveying and Mapping, Montgomery County, Texas.
- The survey was made by the surveyor in accordance with the rules and regulations of the Board of Surveying and Mapping, Montgomery County, Texas.
- The survey was made by the surveyor in accordance with the rules and regulations of the Board of Surveying and Mapping, Montgomery County, Texas.
- The survey was made by the surveyor in accordance with the rules and regulations of the Board of Surveying and Mapping, Montgomery County, Texas.

BOUNDARY SURVEY
 TWO TRACTS
 TRACT 1 - 6.888 ACRES
 TRACT 2 - 6.888 ACRES
 BOROUGH PARK DEVELOPERS, L.P.
 MONTGOMERY COUNTY, TEXAS

Sirex ENGINEERING CORP.
 1000 N. GARDNER ST.
 SUITE 100
 MONTGOMERY, TEXAS 75104
 (409) 833-1111

511-00-2247

EXHIBIT "A"
SCHEDULE TWO

METES AND BOUNDS DESCRIPTION OR PROPERTY

EXHIBIT "A"— PROPERTY DESCRIPTION

1226\DOCUMENT\DECLARE 9.DOC

EXHIBIT "A"
SCHEDULE TWO

METES AND BOUNDS DESCRIPTION
0.805 ACRES (35,084 SQUARE FEET)
BOROUGH PARK SUBDIVISION, BLOCK 3
MONTGOMERY COUNTY, TEXAS

Being a 0.805 acres (35,084 square feet) of land out of and part of Block 3, Reserve "C" of Borough Park Subdivision, according to the plat recorded in Cabinet "C", Sheet 116B of the Montgomery County Map Records (M.C.M.R.) located in the Charles Eisterwall Survey, Abstract No. 191, Montgomery County, Texas, also being a portion of that called 0.837 acre tract conveyed to Borough Park Developers, LTD. and recorded under County Clerk's File No. 9844222 of the Official Public Records of Real Property, Montgomery County, Texas (R.P.R.M.C.T.), said 0.805 acres being more particularly described by metes and bounds as follows; (The basis of bearing for this survey is the south line of Briar Rock Road as shown on said plat.):

BEGINNING at a 5/8-inch iron rod found at the southwest corner of said 0.837 acre tract and the northwest corner of that called 0.5254 acre tract conveyed to Salon Kendall L.P. and recorded under Clerk's File No. 9776797 of the R.P.R.M.C.T., lying in the east right-of-way line of Borough Park Drive (60 feet wide);

THENCE NORTH 04 degrees 40 minutes 17 seconds WEST, 180.72 feet along said east line of Borough Park Drive to a "X" set in concrete at the northwest corner of the herein described tract;

THENCE NORTH 85 degrees 19 minutes 36 seconds EAST, 189.83 feet to a "X" set in concrete at the northeast corner of the herein described tract, lying in the west line of the residue of said Block 3, Reserve "C" of Borough Park Subdivision;

THENCE SOUTH 04 degrees 40 minutes 17 seconds EAST, 188.90 feet along said west line of Reserve "C" to a 5/8-inch iron rod set at the southeast corner of said 0.837 acre tract and the southeast corner of the herein described tract;

THENCE SOUTH 87 degrees 44 minutes 23 seconds WEST, 190.00 feet along the north line of said 0.5254 acre tract to the POINT OF BEGINNING and CONTAINING 0.805 acres (35,084 square feet) of land.

EXHIBIT "A"— PROPERTY DESCRIPTION

1226\DOCUMENT\DECLARE 9.DOC

511-00-2249

EXHIBIT "B"
PERCENTAGES OF OWNERSHIP
AND
WEIGHTED VOTING

EXHIBIT "B"—PERCENTAGES OF OWNERSHIP
AND
WEIGHTED VOTING

1226\DOCUMENT\DECLARE 9.DOC

511-00-2250

EXHIBIT "B"

**PERCENTAGES OF OWNERSHIP
AND
WEIGHTED VOTING**

Ownership of the condominium, and owner voting in the council of owners, are allocated to of each unit, as follows:

<u>Unit</u>	<u>Ownership</u>	<u>Weighting of Votes</u>
Unit 105	18.30%	2,048
Unit 106	20.10%	2,252
Unit 107	24.40%	2,734
Unit 108	19.10%	2,138
<u>Unit 109</u>	<u>18.10%</u>	<u>2,029</u>
Total Ownership	100.00%	
Total votes in the council of owner:		11,201

The percentage ownership allocated to each unit, and the weighting of each unit owner's vote in the council of owners, is in proportion to the total area in each unit divided by the total area in all units (11,201 square feet, more or less).

**EXHIBIT "B"—PERCENTAGES OF OWNERSHIP
AND
WEIGHTED VOTING**

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511-00-2251

EXHIBIT "C"

**LOCATION OF THE BUILDINGS, COMPRESSOR PADS
AND
OTHER COMMON ELEMENTS**

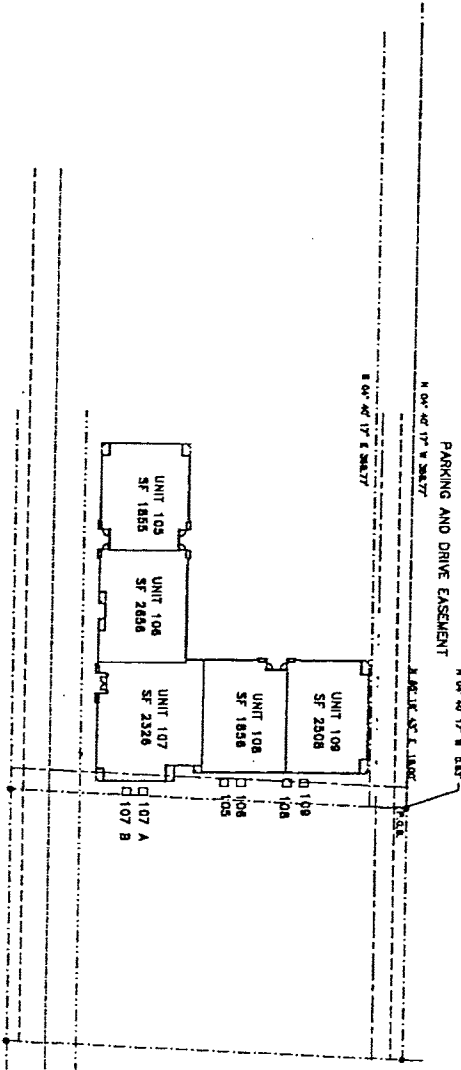
EXHIBIT "C"
**LOCATION OF THE BUILDINGS, COMPRESSOR PADS
AND
OTHER COMMON ELEMENTS**

1226\DOCUMENT\DECLARE 9.DOC

511-00-2252

SITE PLAN

*MUST BE BUILT



KEYED NOTES:

1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. ALL WALLS ARE 12\"/>

**BOROUGH PARK
OFFICE BUILDING**

A PROJECT OF:
**INFINITY-TEXAS DEVELOPMENT
MONTGOMERY COUNTY, TEXAS**

WCA
WILLIAMS CONSULTANTS & ARCHITECTS
10000 N. GULF Fwy., Suite 1000
Dallas, TX 75243
Tel: 972.343.1100
Fax: 972.343.1101
www.wca.com

511-00-2253

EXHIBIT "C"
SCHEDULE I
COMPRESSOR PAD INFORMATION

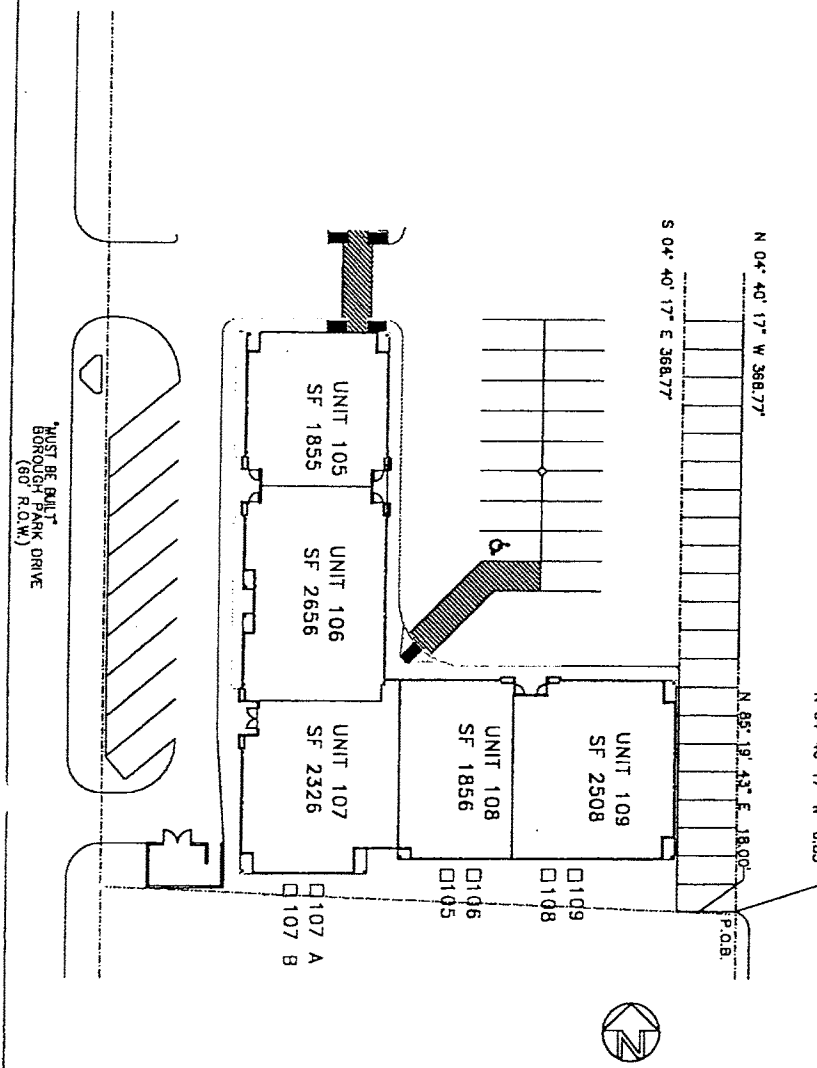
EXHIBIT "C"—SCHEDULE I—COMPRESSOR PAD INFORMATION

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511-00-2254

BOROUGH PARK PROFESSIONAL CONDOMINIUMS

PARKING AND DRIVE EASEMENT



MOA
MONTGOMERY OFFICE ARCHITECTS & ENGINEERS, P.C.
10000 N. GARDEN ROAD, SUITE 100, DALLAS, TEXAS 75243
TEL: 972.342.1000 FAX: 972.342.1001

BOROUGH PARK OFFICE BUILDING
A PROJECT OF:
INFINITY-TEXAS DEVELOPMENT
MONTGOMERY COUNTY, TEXAS

INFINITY-TEXAS DEVELOPMENT
10000 N. GARDEN ROAD, SUITE 100, DALLAS, TEXAS 75243
TEL: 972.342.1000 FAX: 972.342.1001

511-00-2255

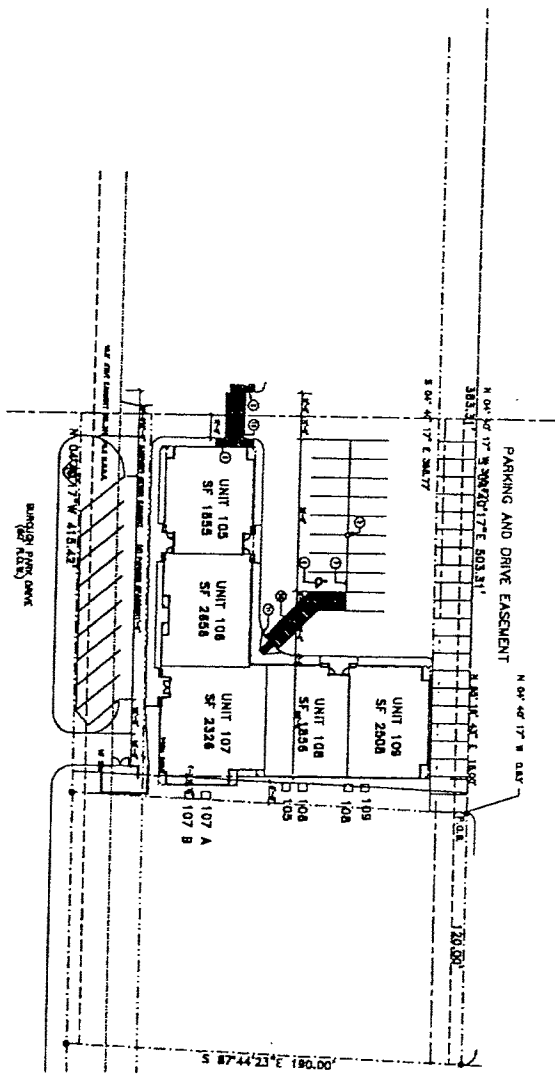
EXHIBIT "D"
DESCRIPTION OF THE UNITS
AND
COMMON ELEMENTS

EXHIBIT "D"—DESCRIPTION OF THE UNITS
AND
COMMON ELEMENTS

1226\DOCUMENT\DECLARE 9.DOC

SITE PLAN

511-00-2256



"MUST BE BUILT"

NOTES:
 1. THE SHOWN BUILDING FOOTPRINT IS THE PROPOSED BUILDING FOOTPRINT.
 2. THE SHOWN BUILDING FOOTPRINT IS THE PROPOSED BUILDING FOOTPRINT.
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KEYED NOTES:

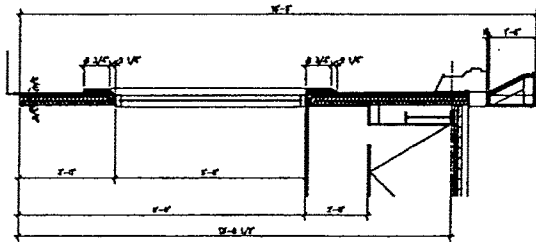
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BY:	
CHECKED:	
APPROVED:	
SCALE:	
PROJECT:	
SHEET:	
TOTAL SHEETS:	
DATE:	
BY:	
CHECKED:	
APPROVED:	
SCALE:	
PROJECT:	
SHEET:	
TOTAL SHEETS:	

BOROUGH PARK OFFICE BUILDING
 A PROJECT OF:
INFINITY-TXAS DEVELOPMENT
 MONTGOMERY COUNTY, TEXAS

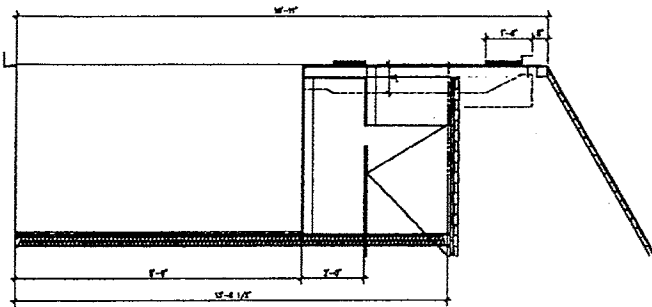


SECTIONS

511-00-2260



"MUST BE BUILT"



KEYED NOTES:

NO.	DATE	DESCRIPTION
1	11/17/70	ISSUED FOR PERMITS
2	11/17/70	ISSUED FOR PERMITS
3	11/17/70	ISSUED FOR PERMITS
4	11/17/70	ISSUED FOR PERMITS
5	11/17/70	ISSUED FOR PERMITS
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98	11/17/70	ISSUED FOR PERMITS
99	11/17/70	ISSUED FOR PERMITS
100	11/17/70	ISSUED FOR PERMITS

**BOROUGH PARK
OFFICE BUILDING**
A PROJECT OF:
INFINITY-TEXAS DEVELOPMENT
MONTGOMERY COUNTY, TEXAS



511-00-2261

EXHIBIT "D-1"

METES AND BOUNDS DESCRIPTION
UNIT 105

EXHIBIT D-1—METES AND BOUNDS DESCRIPTION—UNIT 105

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EXHIBIT "D-1"

METES AND BOUNDS DESCRIPTION
UNIT 105
1,806 SQUARE FEET
BOROUGH PARK SUBDIVISION, BLOCK 3
MONTGOMERY COUNTY, TEXAS

Being a 1,806 square feet of land out of and part of Block 3, Reserve "C" of Borough Park Subdivision, according to the plat recorded in Cabinet "C", Sheet 116B of the Montgomery County Map Records (M.C.M.R.) located in the Charles Eisterwall Survey, Abstract No. 191, Montgomery County, Texas, also being a portion of that called 0.837 acre tract conveyed to Borough Park Developers, LTD. and recorded under County Clerk's File No. 9844222 of the Official Public Records of Real Property, Montgomery County, Texas (R.P.R.M.C.T.), said 1,806 square feet being more particularly described by metes and bounds as follows; (The basis of bearing for this survey is the south line of Briar Rock Road as shown on said plat.):

COMMENCING at a 5/8-inch iron rod found at the southwest corner of said 0.837 acre tract and the northwest corner of that called 0.5254 acre tract conveyed to Salon Kendall L.P. and recorded under Clerk's File No. 9776797 of the R.P.R.M.C.T., lying in the east right-of-way line of Borough Park Drive (60 feet wide);

THENCE, North 04° 40' 17" West, 125.93 feet along said East line of Borough Park Drive

THENCE, North 85° 19' 36" East, 43.09 feet to the POINT OF BEGINNING and a southwest corner of the herein described tract;

THENCE, North 04° 48' 00" West, 5.8 feet to a corner of the interior wall;

THENCE, South 85° 12' 00" West, 0.7 feet to a corner of the interior wall;

THENCE, North 04° 48' 00" West, 29.1 feet to a corner of the interior wall;

THENCE, North 85° 12' 00" East, 3.6 feet to a corner of the interior wall;

THENCE, North 04° 48' 00" West, 5.7 feet to a corner of the interior wall;

THENCE, North 85° 12' 00" East, 34.6 feet to a corner of the interior wall;

THENCE, South 04° 48' 00" East, 5.8 feet to a corner of the interior wall;

THENCE, North 85° 12' 00" East, 3.7 feet to a corner of the interior wall;

THENCE, South 04° 48' 00" East, 28.9 feet to a corner of the interior wall;

THENCE, South 85° 12' 00" West, 0.7 feet to a corner of the interior wall;

THENCE, South 04° 48' 00" East, 5.7 feet to a corner of the interior wall;

EXHIBIT D-1—METES AND BOUNDS DESCRIPTION—UNIT 105

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511-00-2263

THENCE, South 85° 12' 00" West, 3.8 feet to a corner of the interior wall;

THENCE, South 04° 48' 00" East, 5.0 feet to a corner of the interior wall;

THENCE, South 85° 12' 00" West, 32.9 feet to a corner of the interior wall;

THENCE, North 04° 48' 00" West, 4.9 feet to a corner of the interior wall;

THENCE, South 85° 12' 00" West, 3.7 feet to the POINT OF BEGINNING, and
CONTAINING a computed 1,806 square feet of land.

EXHIBIT D-1—METES AND BOUNDS DESCRIPTION—UNIT 105

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511-00-2264

EXHIBIT "D-2"

METES AND BOUNDS DESCRIPTION
UNIT 106

EXHIBIT D-2—METES AND BOUNDS DESCRIPTION—UNIT 106

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EXHIBIT "D-2"

**METES AND BOUNDS DESCRIPTION
UNIT 106
2,520 SQUARE FEET
BOROUGH PARK SUBDIVISION, BLOCK 3
MONTGOMERY COUNTY, TEXAS**

Being a 2,520 square feet of land out of and part of Block 3, Reserve "C" of Borough Park Subdivision, according to the plat recorded in Cabinet "C", Sheet 116B of the Montgomery County Map Records (M.C.M.R.) located in the Charles Eisterwall Survey, Abstract No. 191, Montgomery County, Texas, also being a portion of that called 0.837 acre tract conveyed to Borough Park Developers, LTD. and recorded under County Clerk's File No. 9844222 of the Official Public Records of Real Property, Montgomery County, Texas (R.P.R.M.C.T.), said 2,520 square feet being more particularly described by metes and bounds as follows; (The basis of bearing for this survey is the south line of Briar Rock Road as shown on said plat.):

COMMENCING at a 5/8-inch iron rod found at the southwest corner of said 0.837 acre tract and the northwest corner of that called 0.5254 acre tract conveyed to Salon Kendall L.P. and recorded under Clerk's File No. 9776797 of the R.P.R.M.C.T., lying in the east right-of-way line of Borough Park Drive (60 feet wide);

THENCE, North 04°40'17" West, 57.22 feet along said East line of Borough Park Drive

THENCE, North 85°19'36" East, 43.26 feet to the POINT OF BEGINNING and a southwest corner of the herein described tract;

THENCE, North 04°48'00" West, a distance of 5.8 feet to a corner of the interior wall;

THENCE, South 85°12'00" West, a distance of 0.8 feet to a corner of the interior wall;

THENCE, North 04°48'00" West, a distance of 13.9 feet to a corner of the interior wall;

THENCE, North 85°12'00" East, a distance of 3.1 feet to a corner of the interior wall;

THENCE, North 04°48'00" West, a distance of 4.0 feet to a corner of the interior wall;

THENCE, North 85°12'00" East, a distance of 0.8 feet to a corner of the interior wall;

THENCE, North 04°48'00" West, a distance of 2.1 feet to a corner of the interior wall;

THENCE, South 85°12'00" West, a distance of 0.8 feet to a corner of the interior wall;

THENCE, North 04°48'00" West, a distance of 6.6 feet to a corner of the interior wall;

THENCE, North 85°12'00" East, a distance of 0.8 feet to a corner of the interior wall;

THENCE, North 04°48'00" West, a distance of 2.1 feet to a corner of the interior wall;

THENCE, South 85°12'00" West, a distance of 0.8 feet to a corner of the interior wall;

THENCE, North 04°48'00" West, a distance of 4.1 feet to a corner of the interior wall;

THENCE, South 85°12'00" West, a distance of 3.1 feet to a corner of the interior wall;

THENCE, North 04°48'00" West, a distance of 14.0 feet to a corner of the interior wall;

THENCE, North 85°12'00" East, a distance of 0.7 feet to a corner of the interior wall;

EXHIBIT D-2—METES AND BOUNDS DESCRIPTION—UNIT 106

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THENCE, North 04°48'00" West, a distance of 5.8 feet to a corner of the interior wall;

THENCE, North 85°12'00" East, a distance of 3.7 feet to a corner of the interior wall;

THENCE, North 04°48'00" West, a distance of 4.9 feet to a corner of the interior wall and the northwest corner of the herein described tract;

THENCE, North 85°12'00" East, a distance of 32.8 feet to a corner of the interior wall and the northeast corner of the herein described tract;

THENCE, South 04°48'00" East, a distance of 5.0 feet to a corner of the interior wall;

THENCE, North 85°12'00" East, a distance of 3.7 feet to a corner of the interior wall;

THENCE, South 04°48'00" East, a distance of 5.7 feet to a corner of the interior wall;

THENCE, North 85°12'00" East, a distance of 0.8 feet to a corner of the interior wall;

THENCE, South 04°48'00" East, a distance of 13.1 feet to a corner of the interior wall;

THENCE, South 85°12'00" West, a distance of 0.8 feet to a corner of the interior wall;

THENCE, South 04°48'00" East, a distance of 1.9 feet to a corner of the interior wall;

THENCE, North 85°12'00" East, a distance of 0.9 feet to a corner of the interior wall;

THENCE, South 04°48'00" East, a distance of 11.8 feet to a corner of the interior wall;

THENCE, South 85°12'00" West, a distance of 0.8 feet to a corner of the interior wall;

THENCE, South 04°48'00" East, a distance of 1.8 feet to a corner of the interior wall;

THENCE, North 85°12'00" East, a distance of 0.8 feet to a corner of the interior wall;

THENCE, South 04°48'00" East, a distance of 17.5 feet to a corner of the interior wall;

THENCE, South 85°12'00" West, a distance of 1.0 feet to a corner of the interior wall;

THENCE, South 04°48'00" East, a distance of 6.7 feet to a corner of the interior wall to the southeast corner of the herein described tract;

THENCE, South 85°12'00" West, a distance of 40.1 feet to POINT OF BEGINNING, and CONTAINING a computed 2,520 square feet of land.

EXHIBIT D-2—METES AND BOUNDS DESCRIPTION—UNIT 106

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EXHIBIT "D-3"
METES AND BOUNDS DESCRIPTION
UNIT 107

EXHIBIT D-3—METES AND BOUNDS DESCRIPTION—UNIT 107

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EXHIBIT "D-3"

**METES AND BOUNDS DESCRIPTION
UNIT 107
2,189 SQUARE FEET
BOROUGH PARK SUBDIVISION, BLOCK 3
MONTGOMERY COUNTY, TEXAS**

Being a 2,189 square feet of land out of and part of Block 3, Reserve "C" of Borough Park Subdivision, according to the plat recorded in Cabinet "C", Sheet 116B of the Montgomery County Map Records (M.C.M.R.) located in the Charles Eisterwall Survey, Abstract No. 191, Montgomery County, Texas, also being a portion of that called 0.837 acre tract conveyed to Borough Park Developers, LTD. and recorded under County Clerk's File No. 9844222 of the Official Public Records of Real Property, Montgomery County, Texas (R.P.R.M.C.T.), said 2,189 square feet being more particularly described by metes and bounds as follows; (The basis of bearing for this survey is the south line of Briar Rock Road as shown on said plat.):

COMMENCING at a 5/8-inch iron rod found at the southwest corner of said 0.837 acre tract and the northwest corner of that called 0.5254 acre tract conveyed to Salon Kendall L.P. and recorded under Clerk's File No. 9776797 of the R.P.R.M.C.T., lying in the east right-of-way line of Borough Park Drive (60 feet wide);

THENCE, North 87°44'23" East, 41.84 feet along the South line of said 0.837 acre tract;

THENCE, North 02°15'37" West, 13.95 feet to the POINT OF BEGINNING and a southwest corner of the herein described tract;

THENCE, North 04° 48' 00" West, 29.1 feet to a corner of the interior wall;

THENCE, North 85° 12' 00" East, 0.8 feet to a corner of the interior wall;

THENCE, North 04° 48' 00" West, 5.8 feet to a corner of the interior wall;

THENCE, North 85° 12' 00" East, 3.7 feet to a corner of the interior wall;

THENCE, North 04° 48' 00" West, 9.8 feet to a corner of the interior wall;

THENCE, North 85° 12' 00" East, 36.7 feet to a corner of the interior wall;

THENCE, North 04° 48' 00" West, 6.8 feet to a corner of the interior wall;

THENCE, North 85° 12' 00" East, 4.9 feet to a corner of the interior wall;

THENCE, South 04° 48' 00" East, 49.7 feet to a corner of the interior wall;

THENCE, South 85° 12' 00" West, 12.8 feet to a corner of the interior wall;

THENCE, South 04° 48' 00" East, 7.4 feet to a corner of the interior wall;

EXHIBIT D-3—METES AND BOUNDS DESCRIPTION—UNIT 107

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511-00-2269

THENCE, South 85° 12' 00" West, 29.7 feet to a corner of the interior wall;

THENCE, North 04° 48' 00" West, 5.6 feet to a corner of the interior wall;

THENCE, North 85° 12' 00" East, 3.6 feet to the POINT OF BEGINNING, and
CONTAINING a computed 2,189 square feet of land.

EXHIBIT D-3—METES AND BOUNDS DESCRIPTION—UNIT 107

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EXHIBIT "D-4"
METES AND BOUNDS DESCRIPTION
UNIT 108

EXHIBIT D-4—METES AND BOUNDS DESCRIPTION—UNIT 108

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EXHIBIT "D-4"

METES AND BOUNDS DESCRIPTION
UNIT 108
2,231 SQUARE FEET
BOROUGH PARK SUBDIVISION, BLOCK 3
MONTGOMERY COUNTY, TEXAS

Being a 2,231 square feet of land out of and part of Block 3, Reserve "C" of Borough Park Subdivision, according to the plat recorded in Cabinet "C", Sheet 116B of the Montgomery County Map Records (M.C.M.R.) located in the Charles Eisterwall Survey, Abstract No. 191, Montgomery County, Texas, also being a portion of that called 0.837 acre tract conveyed to Borough Park Developers, LTD. and recorded under County Clerk's File No. 9844222 of the Official Public Records of Real Property, Montgomery County, Texas (R.P.R.M.C.T.), said 2,231 square feet being more particularly described by metes and bounds as follows; (The basis of bearing for this survey is the south line of Briar Rock Road as shown on said plat.):

COMMENCING at a 5/8-inch iron rod found at the southwest corner of said 0.837 acre tract and the northwest corner of that called 0.5254 acre tract conveyed to Salon Kendall L.P. and recorded under Clerk's File No. 9776797 of the R.P.R.M.C.T., lying in the east right-of-way line of Borough Park Drive (60 feet wide);

THENCE, North 87°44'23" East, 92.92 feet along the South line of said 0.837 acre tract;

THENCE, North 2°15'37" West, 14.95 feet to the POINT OF BEGINNING and a southwest corner of the herein described tract;

THENCE, North 04°48'00" West, 3.0 feet to a corner of the interior wall;

THENCE, South 85°12'00" West, 4.2 feet to a corner of the interior wall;

THENCE, North 04°48'00" West, 49.6 feet to a corner of the interior wall;

THENCE, North 85°12'00" East, 28.1 feet to a corner of the interior wall;

THENCE, South 04°48'00" East, 0.7 feet to a corner of the interior wall;

THENCE, North 85°12'00" East, 5.8 feet to a corner of the interior wall;

THENCE, South 04°48'00" East, 3.7 feet to a corner of the interior wall;

THENCE, North 85°12'00" East, 9.6 feet to a corner of the interior wall;

THENCE, South 04°48'00" East, 48.2 feet to a corner of the interior wall;

THENCE, South 85°12'00" West, 39.4 feet to the POINT OF BEGINNING, and CONTAINING a computed 2,231 square feet of land.

EXHIBIT D-4—METES AND BOUNDS DESCRIPTION—UNIT 108

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EXHIBIT "D-5"
METES AND BOUNDS DESCRIPTION
UNIT 109

EXHIBIT D-5—METES AND BOUNDS DESCRIPTION—UNIT 109

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EXHIBIT "D-5"

METES AND BOUNDS DESCRIPTION
 UNIT 109
 1,952 SQUARE FEET
 BOROUGH PARK SUBDIVISION, BLOCK 3
 MONTGOMERY COUNTY, TEXAS

Being a 1,952 square feet of land out of and part of Block 3, Reserve "C" of Borough Park Subdivision, according to the plat recorded in Cabinet "C", Sheet 116B of the Montgomery County Map Records (M.C.M.R.) located in the Charles Eisterwall Survey, Abstract No. 191, Montgomery County, Texas, also being a portion of that called 0.837 acre tract conveyed to Borough Park Developers, LTD. and recorded under County Clerk's File No. 9844222 of the Official Public Records of Real Property, Montgomery County, Texas (R.P.R.M.C.T.), said 1,952 square feet being more particularly described by metes and bounds as follows; (The basis of bearing for this survey is the south line of Briar Rock Road as shown on said plat.):

COMMENCING at a 5/8-inch iron rod found at the southwest corner of said 0.837 acre tract and the northwest corner of that called 0.5254 acre tract conveyed to Salon Kendall L.P. and recorded under Clerk's File No. 9776797 of the R.P.R.M.C.T., lying in the east right-of-way line of Borough Park Drive (60 feet wide);

THENCE, North 87°44'23" East, 132.75 feet along the South line of said 0.837 acre tract;

THENCE, North 02°15'37" West, 16.71 feet to the POINT OF BEGINNING and a southwest corner of the herein described tract;

THENCE, North 04°48'00" West, 51.9 feet to a corner of the interior wall;

THENCE, North 85°12'00" East, 5.6 feet to a corner of the interior wall;

THENCE, North 04°48'00" West, 0.7 feet to a corner of the interior wall;

THENCE, North 85°12'00" East, 29.0 feet to a corner of the interior wall;

THENCE, South 04°48'00" East, 6.4 feet to a corner of the interior wall;

THENCE, North 85°12'00" East, 3.5 feet to a corner of the interior wall;

THENCE, South 04°48'00" East, 39.8 feet to a corner of the interior wall;

THENCE, South 85°12'00" West, 3.7 feet to a corner of the interior wall;

THENCE, South 04°48'00" East, 6.4 feet to a corner of the interior wall;

THENCE, South 85°12'00" West, 34.4 feet to the POINT OF BEGINNING, and CONTAINING a computed 1,952 square feet of land.

EXHIBIT D-5—METES AND BOUNDS DESCRIPTION—UNIT 109

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EXHIBIT "E"

CONDITIONS OF TITLE

EXHIBIT "E"—CONDITIONS OF TITLE

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EXHIBIT "E"**CONDITIONS OF TITLE**

1. Restrictions in instruments recorded under File Nos. 8231463, 8523173, 9367642, and 9805172 of the Real Property Records of Montgomery County, Texas, and by the Map and Dedication recorded in Cabinet C, Sheet 116B of the Map Records of Montgomery County, Texas and the plat of Oak Ridge North Townhouses recorded in Volume 10, Page 24 of the Map Records of Montgomery County, Texas.
2. Easement 16.5 feet wide along the west property line of the subject property as granted to American Telephone and Telegraph Company by instrument recorded in Volume 311, Page 5 of the Deed Records and as reflected by the aforesaid plat of Borough Park Subdivision recorded in Cabinet C, Sheet 116B of the Map Records of Montgomery County, Texas.
Same being additionally modified by that certain Supplemental Right of Way and Easement granted to American Telephone and Telegram Company by instrument recorded in Volume 827, Page 60 of the Deed Records of Montgomery County, Texas.
3. Building line 15 feet wide along the north property line of the subject property as imposed by the map and dedication recorded in Cabinet C, Sheet 116B of the Map Records of Montgomery County, Texas.
4. Sanitary Sewer Easement 15 feet wide located adjacent to and easterly of the above described AT&T Easement as imposed by the map and dedication recorded in Cabinet C, Sheet 116B of the Map Records of Montgomery County, Texas.
5. Building line 40 feet wide along the west property line of the subject property as imposed by the map and dedication recorded in Cabinet C, Sheet 116B of the Map Records of Montgomery County, Texas.
6. Building line 72 inches wide adjacent to all property lines of the subject property as set forth by instrument recorded under File No. 9367642 of the Real Property Records of Montgomery County, Texas.
7. Easement as set forth by instrument dated January 15, 1998, recorded under File No. 9805172 and instrument dated April 28, 1998 under File No. 9830443 of the Real Property Records of Montgomery County, Texas, as such easements WERE amended, recast and completely restated in the Easement Agreement to which this Exhibit E is attached and a part of Agreement to Amend and Recast Two Existing Parking Easements and to Grant an Access Easement, executed by Champions Glen Utility Company, Meyer & Leigh Homes, Inc., Omero Del Papa, III and Borough Park Developers, Ltd, which Easement Agreement was executed and entered into in contemplation of this Declaration and on or about the date hereof.
8. Easement as granted to Montgomery County Municipal Utility District No. 19 by

EXHIBIT "E"—CONDITIONS OF TITLE

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instrument recorded under File No. 8512386 of the Real Property Records of Montgomery County, Texas.

9. A 1/16 non-participating royalty interest in and to all the oil, gas and other minerals on, in, under or that may be produced from the subject property is excepted herefrom as the same are conveyed to A. R. McElreath and F. W. Suggett by instrument recorded in Volume 248, Page 26 of the Deed Records of Montgomery County, Texas. Title to above said interests have not been investigated subsequent to the execution date of cited instruments.
10. Maintenance Assessment as set forth by instrument recorded under File No. 8231463, 8523173 and 9367642 of the Real Property Records of Montgomery County, Texas. Said lien having therein been subordinated to any Deed of Trust or Mortgage and other liens against the subject property.
11. This Declaration and all rights and appurtenances hereto are subject to the rights and benefits, and the burdens and obligations, of the parties to: (a) that one certain parking easement agreement recorded in the Official Public Records of Montgomery County, Texas, under the Montgomery County Clerk's File Nos. 9805172 and 9830443 as restated and amended by instrument recorded in the Official Public Records of Montgomery County, Texas, under the Montgomery County Clerk's File No. 9844223.
12. This Declaration and all rights and appurtenances hereto are subject to the rights and benefits, and the burdens and obligations, of the parties to that one certain Declaration of Reciprocal Easements and Restrictive Covenants recorded in the Official Public Records of Montgomery County, Texas, under the Montgomery County Clerk's File No. 99023199.
13. This Declaration and all rights and appurtenances hereto are subject to the rights and benefits, and the burdens and obligations, of the parties to all easements, encumbrances and other conditions of title pertaining to the Property (in whole or in part) and evidenced by instrument or instruments that are in effect, pertain to the Property (or part thereof) and are recorded in the Official Public Records of Montgomery County, Texas.

FILED FOR RECORD
99 MAR 29 AM 11:27
MARK TURNBULL, CO. CLERK
MONTGOMERY COUNTY, TEXAS
DEPUTY

STATE OF TEXAS
COUNTY OF MONTGOMERY
I hereby certify that this instrument was filed in
File Number Sequence on the date and at the time
stamped herein by me and was duly RECORDED in
the official Public Records of Real Property of
Montgomery County, Texas.

MAR 29 1999



Mark Turnbull
COUNTY CLERK
MONTGOMERY COUNTY, TEXAS

EXHIBIT "E"—CONDITIONS OF TITLE

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