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29 Pages

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Doc# 20080064812

**PUEBLO CONDOMINIUMS
FIRST AMENDMENT TO SECOND AMENDED DECLARATION**

RECITALS:

A. Pueblo Condominiums, a residential condominium project (the "Regime") located in El Paso County, Texas, is currently governed by that certain Second Amended Declaration - Pueblo Condominiums, recorded under Document No. 20070058515, Official Public Records of El Paso County, Texas (the "Declaration").

B. The Declaration provides for the Home Owners Association Pueblo Condominiums, Inc. (the "Association"), whose members are the owners of condominium units within the Regime (collectively, the "Members"), to serve as the condominium association entitled under the Declaration to administer the affairs of the Regime.

C. All of the Members, desiring to amend the Declaration to meet the requirements of the Federal Housing Administration, have approved the form of this amendment to the Declaration (this "Amendment") in accordance with the requirements of the Texas Uniform Condominium Act, the Declaration and the Bylaws of the Association.

D. The President and Secretary of the Association have executed this Amendment for the purpose of evidencing the consent of the Members hereto.

NOW THEREFORE, the Declaration is hereby amended as follows:

1. **Development of the Regime.** Section 2.02 of the Declaration is hereby deleted in its entirety and replaced with the following:

2.02. **Number of Units.** The Project currently consists of twenty-eight (28) Units as depicted on Exhibits B-1, B-2, C-1, C-2, D-1 and D-2. The maximum number of Units which may be created is forty (40) Units.

2. **Common Elements.** The schedule setting forth each Unit Owner's percentage of undivided ownership in the Common Elements in Section 2.04 of the Declaration is hereby deleted in its entirety and replaced with the following:

<u>Type</u>	<u>Units</u>	<u>Percentage of Undivided Ownership in the Common Elements</u>
2-Bedroom	A1-A6, E1-E6	3.36%
3-Bedroom	A7-A9, D1-D6, E7-E13	3.73%

3. **Limited Common Elements.** *Section 2.05* of the Declaration is hereby deleted in its entirety and replaced with the following:

"2.05. Limited Common Elements.

(a) The following portions of the Common Elements are Limited Common Elements assigned to the Units.

(1) **Shown on Plats and Plans.** Portions of the Common Elements may be allocated as Limited Common Elements on the condominium plats and plans attached hereto as in Exhibits B-1, B-2, C-1, C-2, D-1 and D-2 by use of "LCE" and the identifying number of the Unit to which the Limited Common Element is appurtenant, or by use of a comparable method of designation.

(2) **Appurtenant Areas.** Only to the extent they are not part of the Unit, any front porch, sidewalk or fenced yard space that is obviously intended for the sole and exclusive use of the Unit to which the area is appurtenant is deemed a Limited Common Element, whether or not the area is so designated on Plats and Plans. If the boundaries of an appurtenant area change, with the Board's approval, the altered boundaries of the appurtenant area are the boundaries of the Limited Common Element.

(b) **Subsequent Allocation.** A Common Element not allocated by this Declaration as a Limited Common Element may be allocated only pursuant to the provisions of the Governing Instruments and applicable law.

4. **Landscape Services.** *Section 2.10* is hereby added to the Declaration and provides as follows:

2.10. Landscape Services. The Association may, but will not be obligated to, cause the landscaping within all or any portion of the fenced yard space serving a Unit, and the fence surrounding such landscaping, to be maintained in such a manner and to such a standard as the Board of Directors of the Association may deem appropriate. All expenses associated with such maintenance shall be a common expense. The Association is hereby granted an easement over and across each Unit to the extent reasonably necessary or convenient for the Association or its designated landscaping contractor to maintain such landscaping and fencing. Access shall be limited to Monday through Friday, between the hours of 7 a.m. until 6 p.m., and then only in

conjunction with actual performance of maintenance activities. If the Association damages any improvements located within or serving a Unit in exercising the easement granted hereunder, the Association will be required to restore such improvements to the condition which existed prior to any such damage, at the Association's expense, within a reasonable period of time not to exceed thirty (30) days after the date the Association is notified in writing of the damage by the Owner of the damaged improvements.

5. **Association's Right of Entry.** Section 2.11 of the Declaration is hereby added to the Declaration and provides as follows:

"2.11. **Association's Right of Entry.** If the Board of Directors of the Association determines that an Owner has failed to properly discharge his obligation to maintain, repair, and replace items for which the Owner is responsible, the Board of Directors may give the Owner written notice of the Association's intent to provide the necessary maintenance at Owner's expense. The notice must state, with reasonable particularity, the maintenance deemed necessary and a reasonable period of time in which to complete the work. If the Owner fails or refuses to timely perform the maintenance, the Association may enter upon the Owner's Unit or any Limited Common Elements assigned thereto to do so at Owner's expense, which shall constitute an assessment against the Owner and his Unit collectible as provided herein. In case of an emergency, however, the responsibility to give the Owner written notice may be waived and the Board of Directors may take any action it deems necessary to protect persons or property, the cost of the action being the Owner's expense."

6. **Right of Enforcement.** Section 2.12 of the Declaration is hereby added to the Declaration and provides as follows:

"2.12. **Right of Enforcement.** The Association and every Owner has the right to enforce all restrictions, conditions, covenants, liens, and charges now or hereafter imposed by the Governing Instruments. Failure by the Association or by any Owner to enforce a provision of the Governing Instruments is not a waiver of the right to do so thereafter."

7. **Assessment Lien.** Section 4.07 of the Declaration is hereby deleted in its entirety and replaced with the following:

"4.07. **Assessment Lien Provisions.**

(a) Each Owner, by accepting an interest in or title to a Unit, whether or not it is so expressed in the instrument of conveyance, covenants and agrees to pay assessments to the Association. Each assessment is a charge on the Unit and is secured by a continuing lien on

the Unit. Each Owner, and each prospective Owner, is placed on notice that his title may be subject to the continuing lien for assessments attributable to a period prior to the date he purchased his Unit. An express lien on each Unit is hereby granted and conveyed by Declarant to the Association to secure the payment of assessments.

(b) The assessment lien is superior to all other liens and encumbrances on a Unit, except only for: (i) real property taxes and assessments levied by governmental and taxing authorities; (ii) a recorded deed of trust lien securing a loan for construction of the original Unit; (iii) a deed of trust or vendor's lien recorded before this Declaration; or (iv) a first or senior purchase money vendor's lien or deed of trust lien recorded before the date on which the delinquent assessment became due. The assessment lien is superior to a lien for construction of Improvements to the Unit, regardless of when recorded or perfected. It is also superior to any recorded assignment of the right to insurance proceeds on the Unit, unless the assignment is part of a superior deed of trust lien.

(c) Foreclosure of a superior lien extinguishes the Association's claim against the Unit for unpaid assessments that became due before the sale, but does not extinguish the Association's claim against the former Owner. The purchaser at the foreclosure sale of a superior lien is liable for assessments coming due from and after the date of the sale, and for the Owner's pro rata share of the pre-foreclosure deficiency as a common expense.

(d) The Association's lien for assessments is created by recordation of this Declaration, which constitutes record notice and perfection of the lien. No other recordation of a lien or notice of lien is required. However, the Association, at its option, may cause a notice of the lien to be recorded. If the debt is cured after a notice has been recorded, the Association will record a release of the notice at the expense of the curing Owner. The Association may require reimbursement of its costs of preparing and recording the notice before granting the release.

(e) By accepting an interest in or title to a Unit, each Owner grants to the Association a private power of non-judicial sale in connection with the Association's assessment lien. The Board may appoint, from time to time, any person, including an officer, agent, trustee, substitute trustee, or attorney, to exercise the Association's lien rights on behalf of the Association, including the power of sale. The appointment must be in writing and may be in the form of a resolution recorded in the minutes of a meeting of the Association's Board of

Directors.

(f) The assessment lien may be enforced by judicial or non-judicial foreclosure. A non-judicial foreclosure must be conducted in accordance with the provisions applicable to the exercise of powers of sale as set forth in Section 51.002 of the Texas Property Code, or in any manner permitted by law. In any foreclosure, the Owner will be required to pay the Association's costs and expenses for the proceedings, including reasonable attorneys' fees. The Association has the power to bid on the Unit at foreclosure sale and to acquire, hold, lease, mortgage, and convey same."

8. **Working Capital Fund.** *Section 4.08* of the Declaration is hereby deleted in its entirety and replaced with the following:

"4.08. **Working Capital Fund.** Upon the transfer of a Unit (including both transfers from Declarant to the initial Owner, and transfers from one Owner to a subsequent Owner), a working capital fee in an amount equal to two (2) months of regular assessments will be paid by the transferee of the Unit to the Association for the Association's working capital fund. Each working capital contribution will be collected upon the conveyance of the Unit from one Owner (including Declarant) to another (expressly including any re-conveyances of the Unit upon resale or transfer thereof). Notwithstanding the foregoing provision, the following transfers will not be subject to the working capital contribution: (i) foreclosure of a deed of trust lien, tax lien, or the Association's assessment lien; (ii) transfer to, from, or by the Association; (iii) voluntary transfer by an Owner to one or more co-Owners, or to the Owner's spouse, child, or parent. Contributions to the fund are not advance payments of regular assessments and are not refundable. Declarant may not use working capital fees collected hereunder to pay operational expenses of the Association until the Declarant's control period under *Section 3.08* terminates."

9. **No Right of First Refusal.** *Section 5.05* of the Declaration is hereby added to the Declaration and provides as follows:

"5.05. **No Right of First Refusal.** The right of an Owner to sell, transfer, or otherwise convey his Unit shall not be subject to any right of first refusal or similar restriction, and each Owner shall be permitted to freely sell, transfer or otherwise convey his Unit free of any such restriction."

10. **Mortgagee Protection.** *Article 7* of the Declaration is hereby deleted in its entirety and replaced with the following:

"7.01. **Introduction.** This Article is supplemental to, not a substitution for, any other provision of the Documents. In case of conflict, this Article

controls. Some sections of this Article apply to all mortgagees. Other sections apply to "Eligible Mortgagees," as defined below.

(a) Known Mortgagees. An Owner who mortgages his Unit will notify the Association, giving the complete name and address of his mortgagee and the loan number. The Association's obligations to mortgagees under the Governing Instruments extend only to those mortgagees known to the Association. All actions and approvals required by mortgagees will be conclusively satisfied by the mortgagees known to the Association, without regard to other holders of mortgages on Units. The Association may rely on the information provided by Owners and mortgagees.

(b) Eligible Mortgagees. "Eligible Mortgagee" means the holder, insurer, or guarantor of a first purchase money mortgage secured by a recorded deed of trust lien against a Unit who has submitted to the Association a written notice containing its name and address, the loan number, and the identifying number and street address of the mortgaged Unit. A single notice per Unit will be valid so long as the Eligible Mortgagee holds a mortgage on the Unit. The Board will maintain this information. The Association will treat the notice as the Eligible Mortgagee's request to be notified of any proposed action requiring the consent of Eligible Mortgagees. A provision of the Documents requiring the approval of a specified percentage of Eligible Mortgagees will be based on the number of Units subject to mortgages held by Eligible Mortgagees. For example, "51 percent of Eligible Mortgagees" means Eligible Mortgagees of fifty-one percent (51%) of the Units that are subject to mortgages held by Eligible Mortgagees.

7.02. Amendment. This Article establishes certain standards for the benefit of national institutional mortgage lenders, insurers, underwriters, guarantors, and purchasers on the secondary market, such as Federal Home Loan Mortgage Corporation (Freddie Mac), Federal National Mortgage Association (Fannie Mae), or Government National Mortgage Association (Ginnie Mae) ("**Underwriting Lenders**"). The use of this term and these institutions may not be construed as a limitation on an Owner's financing options or as a representation that the Property is approved by any institution, and is written to comply with their requirements and guidelines in effect at the time of drafting. If an Underwriting Lender subsequently changes its requirements, the Board of Directors of the Association, without approval of Owners or mortgagees, may amend this Article and other provisions of the Documents, as necessary, to meet the requirements of the Underwriting Lender.

7.03. Termination. Termination of the terms of this Declaration and the

condominium status of the Regime will be governed by Section 82.068 of the Act, subject to the following provisions. In the event of condemnation of the entire Project, an amendment to terminate may be executed by the Board of Directors of the Association without a vote of Owners or mortgagees. Any election to terminate this Declaration and the condominium status of the Regime under circumstances other than condemnation of the entire Project shall require the consent of: (i) Owners representing at least eighty percent (80%) of the total votes in the Association; (ii) Declarant until Declarant no longer owns any Unit; and (iii) sixty-seven percent (67%) of Eligible Mortgagees.

7.04. Restoration or Repair. Any restoration or repair of the Project after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with the Declaration and the original plans and specifications unless approved by at least fifty-one percent (51%) of Eligible Mortgagees.

7.05. Implied Approval. The approval of an Eligible Mortgagee is implied when the Eligible Mortgagee fails to respond within sixty (60) days after receiving the Association's written request for approval of a proposed amendment, provided the Association's request was delivered by certified or registered mail, return receipt requested.

7.06. Other Mortgagee Rights.

(a) Inspection of Books. The Association will maintain current copies of the Governing Instruments and the Association's books, records, and financial statements. Mortgagees and Underwriting Lenders may inspect the Governing Instruments and records, by appointment, during normal business hours.

(b) Financial Statements. Upon written request from a mortgagee or Underwriting Lender, the Association shall be required to prepare and furnish within a reasonable time an audited financial statement of the Association for the immediately preceding fiscal year.

(c) Attendance at Meetings. A representative of an Eligible Mortgagee may attend and address any meeting which an Owner may attend.

(d) Right of First Refusal. Any right of first refusal imposed by the Association with respect to a lease, sale, or transfer of a Unit does not apply to a lease, sale, or transfer by a Mortgagee, including transfer by deed in lieu of foreclosure or foreclosure of a deed of trust lien.

(e) Management Contract; Agreements with Declarant. If

professional management of the Association is required by this Article, the contract for professional management may not require more than ninety (90) days' notice to terminate the contract, nor payment of a termination penalty. Any contract or lease, including franchises and licenses, to which the Declarant is a party likewise may not require more than ninety (90) days' notice to terminate, nor payment of a termination penalty.

7.07. Insurance Policies. If an Underwriting Lender that holds a mortgage on a Unit or desires to finance a Unit has requirements for insurance of condominiums, the Association must try to obtain and maintain the required coverages, to the extent they are reasonably available, and must try to comply with any notifications or processes required by the Underwriting Lender. Because underwriting requirements are subject to change, they are not recited here.

7.08. Notice of Actions. The Association will use its best efforts to send timely written notice to Eligible Mortgagees of the following actions:

(a) Any condemnation or casualty loss that affects a material portion of the Property or the mortgaged Unit.

(b) Any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of the mortgaged Unit.

(c) A lapse, cancellation, or material modification of any insurance policy maintained by the Association.

(d) Any proposed action that requires the consent of a specified percentage of Eligible Mortgagees.

(e) Any proposed amendment of a material nature, as provided in this Article.

(f) Any proposed termination of the condominium status of the Property.

7.09. Amendments of a Material Nature. A Governing Instrument amendment of a material nature must be approved by Owners representing at least sixty-seven percent (67%) of the votes in the Association, and by at least fifty-one percent (51%) of Eligible Mortgagees. **THIS APPROVAL REQUIREMENT DOES NOT APPLY TO AMENDMENTS EFFECTED BY THE EXERCISE OF A DEVELOPMENT RIGHT AS PROVIDED IN THE TEXAS UNIFORM CONDOMINIUM AT.** A change to any of the provisions governing the following would be considered material:

- (a) Voting rights.
- (b) Assessment liens or the priority of assessment liens.
- (c) Reductions in reserves for maintenance, repair, and replacement of Common Elements.
- (d) Responsibility for maintenance and repairs.
- (e) Redefinitions of boundaries of Units, except that when boundaries of only adjoining Units are involved, then only those Owners and the Eligible Mortgagees holding mortgages against the Unit or Units need approve the action.
- (f) Convertibility of Units into Common Elements or Common Elements into Units.
- (g) Expansion or contraction of the Property, or the addition, annexation, or withdrawal of property to or from the Property.
- (h) Property or fidelity insurance requirements.
- (i) Imposition of any restrictions on the leasing of Units.
- (j) Imposition of any restrictions on Owners' right to sell or transfer their Units.
- (k) Restoration or repair of the Property, in a manner other than that specified in the Governing Instruments, after hazard damage or partial condemnation.
- (l) Any provision that expressly benefits mortgage holders, insurers, or guarantors."

11. **Amendment.** *Section 8.01 of the Declaration is hereby deleted in its entirety and replaced with the following:*

"8.01. Amendment.

(a) **Consents Required.** As permitted by TUCA or by this Declaration, certain amendments of this Declaration may be executed by Declarant acting alone, or by certain Owners acting alone, or by the Board of Directors of the Association acting alone. Otherwise, amendments to this Declaration must be approved by Owners representing at least sixty-seven percent (67%) of the votes in the Association.

(b) Amendments Generally. For amendments requiring the consent of Eligible Mortgagees, the Association will send each Eligible Mortgagee a detailed description, if not the exact wording, of any proposed amendment.

(c) Effective. To be effective, an amendment must be in the form of a written instrument: (i) referencing the name of the Project, the name of the Association, and the recording data of this Declaration and any amendments hereto; (ii) signed and acknowledged by an officer of the Association, certifying the requisite approval of Owners and, if required, Eligible Mortgagees; provided, however, this subsection (ii) will not apply for amendments prosecuted by Declarant pursuant to any rights reserved by Declarant under this Declaration; and (iii) recorded in the Official Public Records of El Paso County, Texas.

(d) Declarant Provisions. Declarant hereby reserves the right to unilaterally amend this Declaration until seven (7) years after the date on which this Declaration has been recorded in the Official Public Records of El Paso County, Texas:

(1) To meet the requirements, standards, or recommended guidelines of an Underwriting Lender to enable an institutional or governmental lender to make or purchase mortgage loans on the Units.

(2) To correct any defects in the execution of this Declaration or the other Governing Instruments.

(3) To create Units, General Common Elements, and Limited Common Elements.

(4) To subdivide, combine, or reconfigure Units or convert Units into additional Units and/or Common Elements.

(5) To resolve conflicts, clarify ambiguities, and to correct misstatements, errors, or omissions in the Documents.

(6) To exercise any development right, as defined in Section 82.003(12) of the Act, not otherwise described in this *Section 8.01(d)*.

An amendment that may be executed by Declarant alone is not required to name the Association or to be signed by an officer of the Association."

12. **Insurance.**

(a) *Section 3.07(b)(ii), Section 3.07(b)(iii), and Section 3.07(b)(iv)* of the Declaration are hereby deleted in their entirety and replaced with the following:

“(ii) Intentionally deleted.

(iii) Intentionally deleted.

(iv) Intentionally deleted.”

(b) *Article 9* is hereby added to the Declaration and provides as follows:

“9.01. **General Provisions.** The broad purpose of this Article is to require that the Property be insured with the types and amounts of coverage that are customary for similar types of properties and that are acceptable to mortgage lenders, guarantors, or insurers that finance the purchase or improvement of Units. Because the insurance requirements of mortgage underwriters are subject to change, as are State-promulgated insurance regulations and policies, this Article tries to balance the need for certain minimum insurance requirements with the desire to adapt to a periodically changing insurance environment. The Board will make every reasonable effort to comply with the requirements of this Article.

(a) **Unavailability.** The Association, and its directors, officers, and managers, will not be liable for failure to obtain any coverage required by this Article or for any loss or damage resulting from such failure if the failure is due to the unavailability of a particular coverage from reputable insurance companies, or if the coverage is available only at demonstrably unreasonable cost.

(b) **No Coverage.** Even if the Association and the Owner have adequate amounts of recommended and required coverages, the Property may experience a loss that is not covered by insurance. In that event, the Association is responsible for restoring the Common Elements as a common expense, and the Owner is responsible for restoring his Unit at his sole expense. This provision does not apply to the deductible portion of a policy.

(c) **Requirements.** The cost of insurance coverages and bonds maintained by the Association is a common expense. Insurance policies and bonds obtained and maintained by the Association must be issued by responsible insurance companies authorized to do business in the State of Texas. The Association must be the named insured on all policies

obtained by the Association. The Association's policies should contain the standard mortgage clause naming either the mortgagee or its servicer followed by "its successors and assigns." The loss payee clause should show the Association as trustee for each Owner and mortgagee. Policies of property and general liability insurance maintained by the Association must provide that the insurer waives its rights to subrogation under the policy against an Owner. The Association's insurance policies will not be prejudiced by the act or omission of any Owner or occupant who is not under the Association's control.

(d) Association as Trustee. Each Owner irrevocably appoints the Association, acting through its Board, as his trustee to negotiate, receive, administer, and distribute the proceeds of any claim against an insurance policy maintained by the Association.

(e) Notice of Cancellation or Modification. Each insurance policy maintained by the Association should contain a provision requiring the insurer to give prior written notice, as provided by the Act, to the Board before the policy may be canceled, terminated, materially modified, or allowed to expire, by either the insurer or the insured. The Board will give to Eligible Mortgagees, and the insurer will give to Mortgagees, prior notices of cancellation, termination, expiration, or material modification.

(f) Deductibles. An insurance policy obtained by the Association may contain a reasonable deductible, and the amount thereof may not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the coverage limits required by this Declaration or an Underwriting Lender. In the event of an insured loss, the deductible is treated as a common expense of the Association in the same manner as the Insurance premium. However, if the Board reasonably determines that the loss is the result of the negligence or willful misconduct of an Owner or occupant or their invitee, then the Board may levy an assessment against the Owner and his Unit for the amount of the deductible that is attributable to the act or omission, provided the Owner is given notice and an opportunity to be heard in accordance with the requirements of applicable law.

9.02. Property Insurance. The Association will obtain blanket all-risk insurance if reasonably available, for all Improvements insurable by the Association. If blanket all-risk insurance is not reasonably available, then at a minimum, the Association will obtain an insurance policy providing fire and extended coverage. This insurance must be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction

in event of damage or destruction from any insured hazard. The Federal National Mortgage Association recommends use of a guaranteed replacement cost endorsement, or a replacement cost endorsement, together with an agreed amount endorsement in case of coinsurance.

(a) Common Property Insured. The Association will insure: (i) General Common Elements; (ii) Limited Common Elements; and (iii) property owned by the Association including, if any, records, furniture, fixtures, equipment, and supplies.

(b) Units Insured by Association. In addition to insuring the Common Elements against casualty loss, the Association will maintain property insurance on the Units as originally constructed. The Association may insure betterments and Improvements installed by current or previous Owners, but will have no obligation to insure such items. In insuring Units, the Association may be guided by types of policies customarily available for similar types of properties. Notwithstanding the foregoing, to the extent that any fixtures, equipment or other property within a Unit is financed by a mortgage to be purchased by an Underwriting Lender, the Association's policy of property insurance must also insure such fixtures, equipment or other property.

(c) Endorsements. To the extent reasonably available, the Association will obtain endorsements to its property insurance policy if required by an Underwriting Lender, such as Inflation Guard Endorsement, Building Ordinance or Law Endorsement, and a Special Condominium Endorsement.

9.03. Liability Insurance. The Association will maintain a commercial general liability insurance policy over the Common Elements – expressly excluding the liability of each Owner and occupant within his Unit – for bodily injury and property damage resulting from the operation, maintenance, or use of the Common Elements. The amount of coverage should be at least that required by an Underwriting Lender, to the extent reasonably available. The purpose of this requirement is, in part, to assure mortgage companies that the Association maintains at least minimum levels of insurance coverage. For example, the Federal National Mortgage Association requires a minimum of \$1 million for bodily injury and property damage per single occurrence. If the policy does not contain a severability of interest provision, it should contain an endorsement to preclude the insurer's denial of an Owner's claim because of negligent acts of the Association or other Owners.

9.04. Worker's Compensation. The Association may maintain

worker's compensation insurance if and to the extent necessary to meet the requirements of State law or if the Board so chooses.

9.05. Fidelity Coverage. The Association may maintain blanket fidelity coverage for any person who handles or is responsible for funds held or administered by the Association, whether or not the person is paid for his services. The policy should be for an amount that exceeds the greater of: (i) the estimated maximum funds, including reserve funds, that will be in the Association's custody at any time the policy is in force; or (ii) an amount equal to three (3) months of Regular Assessments on all Units. A management agent that handles Association funds should be covered for its own fidelity insurance policy with the same coverages. If the Property has more than thirty (30) Units, the Association must maintain fidelity coverage to the extent reasonably available.

9.06. Directors And Officers Liability. The Association may maintain directors and officers liability insurance, errors and omissions insurance, indemnity bonds, or other insurance the Board deems advisable to insure the Association's directors, officers, committee members, and managers against liability for an act or omission in carrying out their duties in those capacities.

9.07. Mortgagee Required Policies. Unless coverage is not available or has been waived in writing, the Association will maintain any insurance and bond required by an Underwriting Lender for condominium developments as long as an Underwriting Lender is a Mortgagee or an Owner.

9.08. Other Policies. The Association may maintain any insurance policies and bonds deemed by the Board to be necessary or desirable for the benefit of the Association.

9.09. Owner's Responsibility For Insurance.

(a) **Insurance by Owners.** Notwithstanding the foregoing, the Board may establish minimum insurance requirements, including types and minimum amounts of coverage, to be individually obtained and maintained by Owners if the insurance is deemed necessary or desirable by the Board to reduce potential risks to the Association or other Owners. If an Owner fails to maintain required insurance, the Board may obtain it on behalf of the Owner who will be obligated for the cost as an Individual Assessment.

(b) **Owners' Responsibilities.** On request, an Owner will give the Board written notification of any and all structural changes, additions, betterments, or Improvements to his Unit, and any other information the Board may require to maintain adequate levels of insurance coverage.

Each Owner will comply with reasonable requests by the Board for periodic inspection of the Unit for purposes of insurance appraisal. Each Owner, at his expense, will maintain any insurance coverages required by the Association pursuant to this Article. Each Owner at his expense, may obtain additional insurance coverage of his real property, Improvements, and betterments thereto, or personal property.

(c) Association Does Not Insure. The Association does not insure an Owner or occupant's personal property. Each Owner and occupant is solely responsible for insuring his personal property in his Unit and on the Property, including furnishings, vehicles, and stored items. The Association strongly recommends that each Owner and occupant purchase and maintain insurance on his personal belongings."

13. **Plats and Plans.** The condominium plats and plans set forth in Exhibits B-1, B-2, C-1, C-2, D-1 and D-2 to the Declaration are hereby deleted in their entirety and replaced with the condominium plats and plans attached hereto and incorporated herein by referenced as Attachment 1.

14. **Miscellaneous.** Any capitalized terms used and not otherwise defined herein shall have the meanings set forth in the Declaration. Unless expressly amended by this Amendment, all other terms and provisions of the Declaration remain in full force and effect as written, and are hereby ratified and confirmed.

[SIGNATURE PAGE FOLLOWS]

EXECUTED to be effective on the date this Amendment has been recorded in the Official Public Records of El Paso County, Texas.

THE ASSOCIATION:

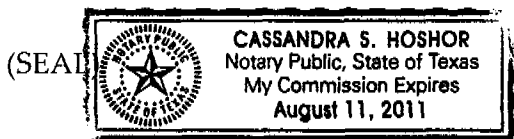
HOME OWNERS ASSOCIATION PUEBLO CONDOMINIUMS, INC., a Texas non-profit corporation

By: [Signature]
Printed Name: FRANK X. SPENCER
Title: President

By: [Signature]
Printed Name: Greg Foster
Title: Secretary

THE STATE OF TEXAS §
COUNTY OF EL PASO §

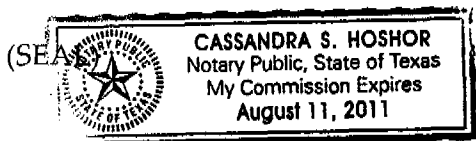
This instrument was acknowledged before me this 29th day of July, 2008 by Frank X Spencer, President of Home Owners Association Pueblo Condominiums, Inc., a Texas non-profit corporation, on behalf of said non-profit corporation.



Cassandra S. Hoshor
Notary Public Signature

THE STATE OF TEXAS §
COUNTY OF EL PASO §

This instrument was acknowledged before me this 29th day of July, 2008 by Greg Foster, Secretary of Home Owners Association Pueblo Condominiums, Inc., a Texas non-profit corporation, on behalf of said non-profit corporation.



Cassandra S. Hoshor
Notary Public Signature

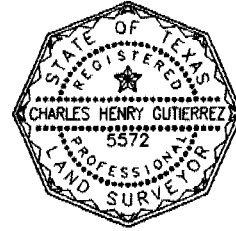
ATTACHMENT 1

**PUEBLO CONDOMINIUMS
PHASE I**

(CONDOMINIUM PLATS AND PLANS)

(Certification)

The plats and plans, attached hereto contain the information required by Sections 82.052 and 82.059 of the Texas Uniform Condominium Act, as applicable.



Printed Name: Charles H. Gutierrez
Registered Professional Land Surveyor

Date: _____

**POOR QUALITY ORIGINAL
BEST AVAILABLE IMAGE**

SHEET 1 OF 10

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ATTACHMENT 1

[CONDOMINIUM PLATS AND PLANS]

**PUEBLO CONDOMINIUMS
PHASE I**

GENERAL NOTES

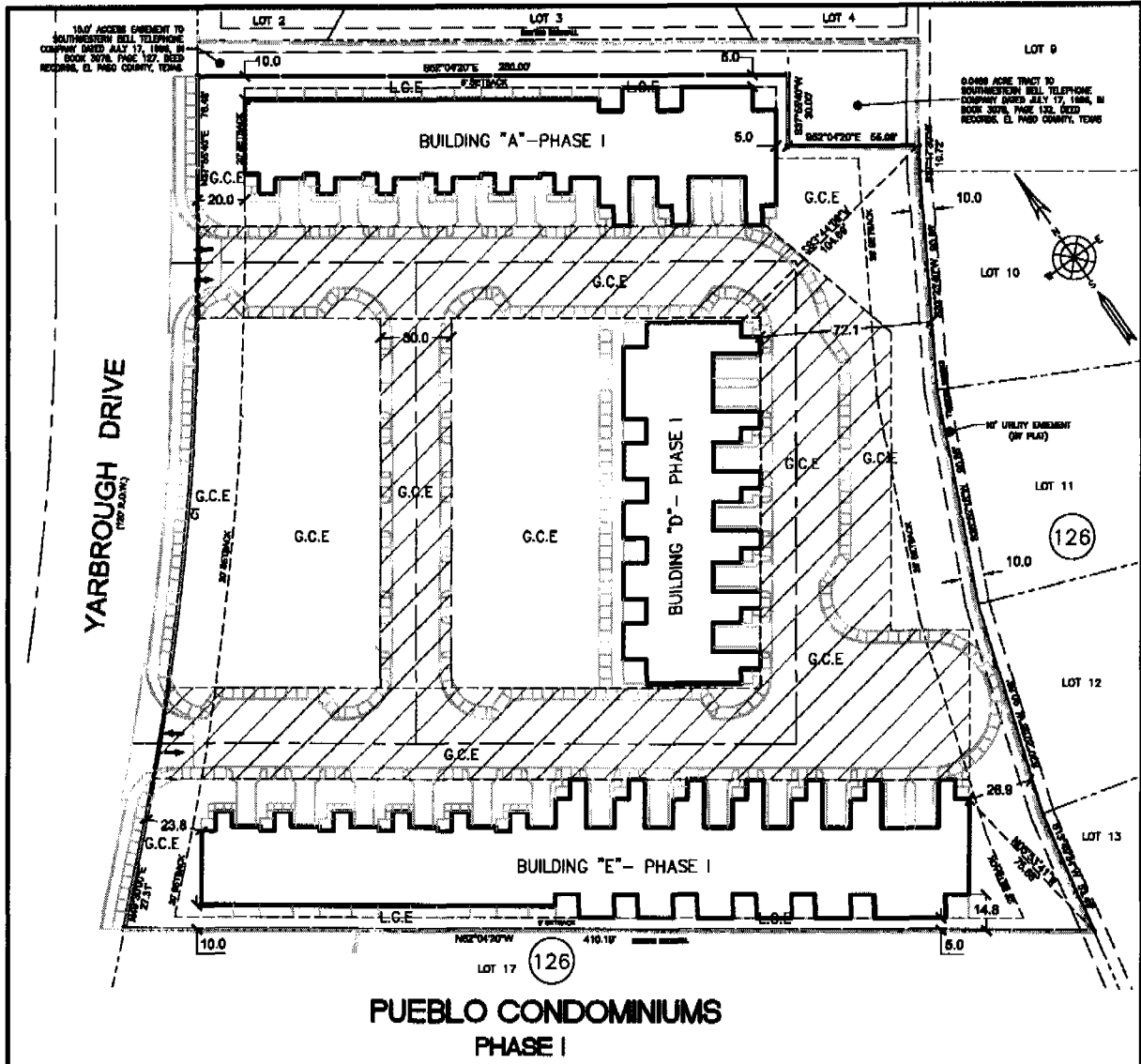
- 1.) All improvements and land reflected on the plat are designated as general common elements, save and except portions of the regime designated as limited common elements or units: (i) in the Declaration of Condominium Regime for Pueblo Condominiums (the "Declaration") or (ii) on the plats and plans of the regime.
- 2.) Ownership and use of condominium units is subject to the rights and restrictions contained in the Declaration.
- 3.) Each unit, building, limited common element and general common element is subject to certain development rights and special declarant rights reserved by the Declarant in accordance with the Texas Uniform Condominium Act.

SHEET 2 OF 10

Frank X. Spencer & Associates, Inc.
Consulting Civil Engineers & Surveyors
1130 Montana * El Paso, Texas 79902

J:\2006\0609EP_Pueblo Condominiums\Plans and Specifications\REZONING PLANS\DECLARANT\PUEBLO CONDOMINIUMS.doc

**POOR QUALITY ORIGINAL
BEST AVAILABLE IMAGE**



SITE PLAN

SCALE: 1"=60'

PORTION OF LOT 17, BLOCK 126, PEBBLE HILLS SUBDIVISION UNIT 15
CITY OF EL PASO, EL PASO COUNTY, TEXAS

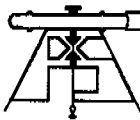
LEGEND

G.C.E.= GENERAL COMMON ELEMENT
L.C.E.= LIMITED COMMON ELEMENT

CURVE TABLE					
CURVE	RADIUS	LENGTH	CHORD	CHORD BEARING	DELTA
C1	1280.00'	284.66'	284.00'	N45°42'00"W	11°34'20"

UTILITY EASEMENT DATED FEBRUARY 06, 2008, IN FILE CLERK'S No. 20080013924, DEED RECORDS, EL PASO COUNTY, TEXAS

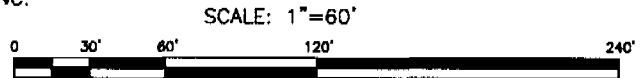
SHEET 03 OF 10



FRANK X. SPENCER & ASSOCIATES, INC.

Consulting Civil Engineers & Land Surveyors

1130 MONTANA
EL PASO, TX 79902
Tel: 915-533-4800



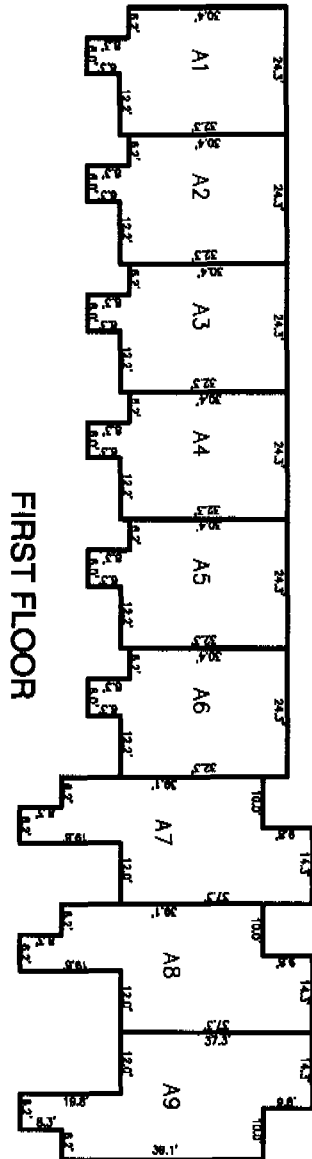
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**POOR QUALITY ORIGINAL
BEST AVAILABLE IMAGE**

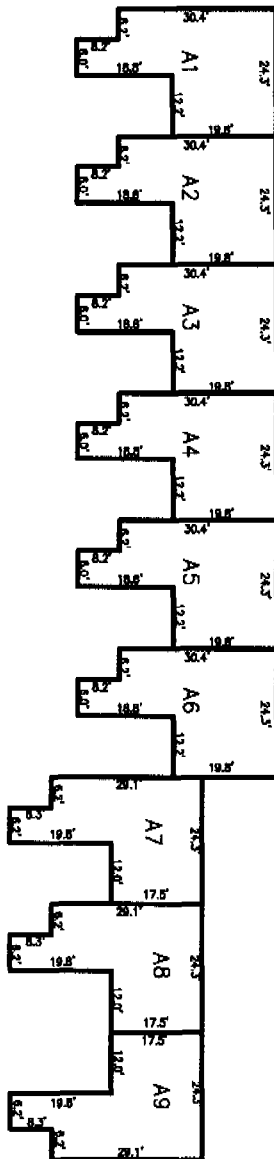
329737-4 08/01/2008

FLOOR PLAN (TYPICAL)

BUILDING "A"



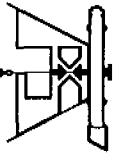
FIRST FLOOR



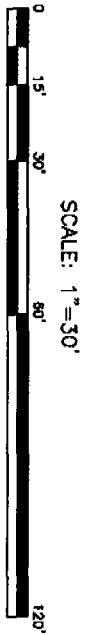
SECOND FLOOR

SHEET 04 OF 10

PUEBLO CONDOMINIUMS
PHASE I



FRANK X. SPENCER & ASSOCIATES, INC.
Consulting Civil Engineers & Land Surveyors
1130 MONTANA
EL PASO, TX 79902
TEL 979-533-4800

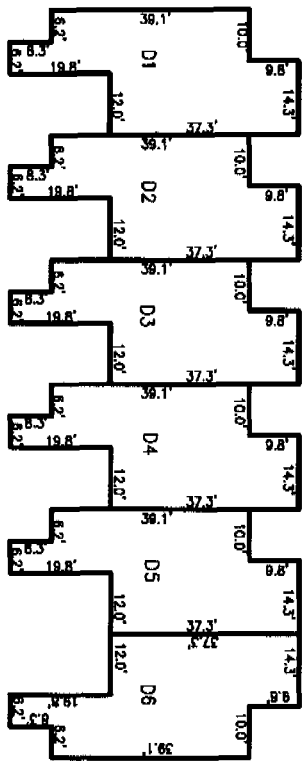


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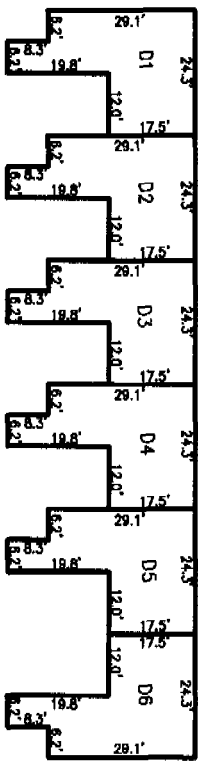
POOR QUALITY ORIGINAL
BEST AVAILABLE IMAGE

FLOOR PLAN (TYPICAL)

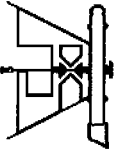
BUILDING "D"



FIRST FLOOR



SECOND FLOOR



FRANK X. SPENCER & ASSOCIATES, INC.
 Consulting Civil Engineers & Land Surveyors
 1130 MONTANA
 EL PASO, TX 79902
 TEL: 915-533-4800

drawn by: D1098888 3/2008 EXHIBIT - Pueblo Condominiums/Phase and Specifications/REZONING PLANS/PERMANENT/PHASE 1/VALUING DRAWING 07/29/08 B-5714A



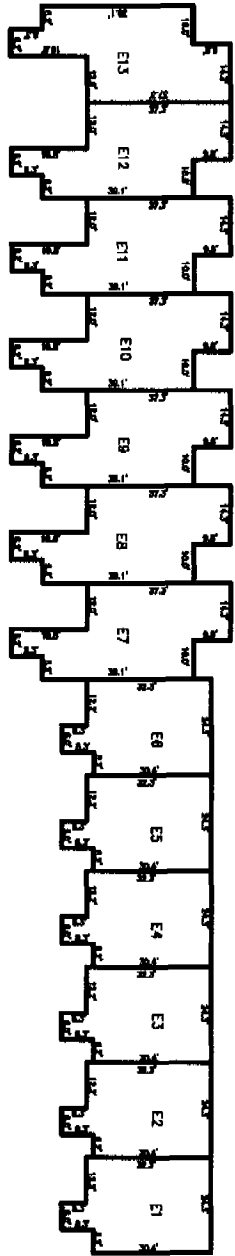
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SHEET 05 OF 10
 PUEBLO CONDOMINIUMS
 PHASE I

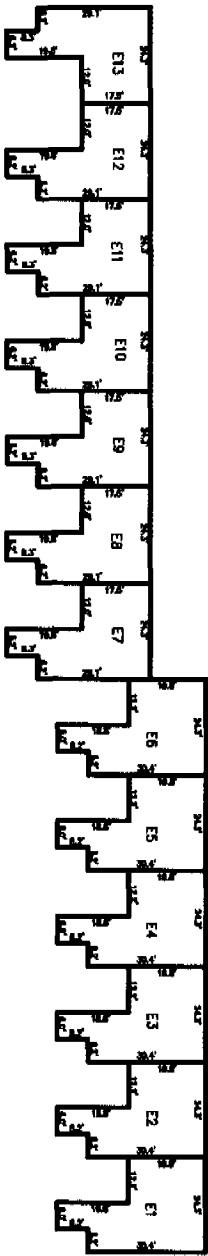
POOR QUALITY ORIGINAL
 BEST AVAILABLE IMAGE

FLOOR PLAN (TYPICAL)

BUILDING "E"



FIRST FLOOR



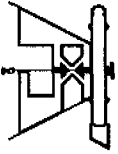
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SHEET 06 OF 10

PUEBLO CONDOMINIUMS

PHASE I

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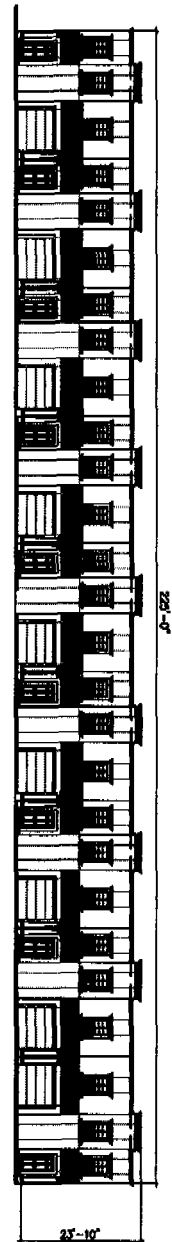


FRANK X. SPENCER & ASSOCIATES, INC.
 Consulting Civil Engineers & Land Surveyors
 1130 KORTRAK
 D. PUEBLO, TX 79602
 Tel: 817-533-4600

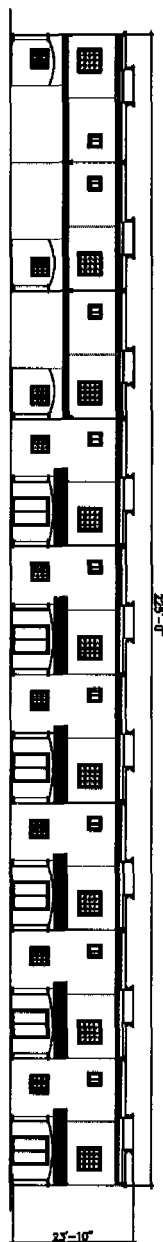
A 2008 Redesign Pueblo Condominiums Phase and Specifications/Revisions/Plans/Declaration/Phase I/Building E/Floor 07/29/08 B.39AM

POOR QUALITY ORIGINAL
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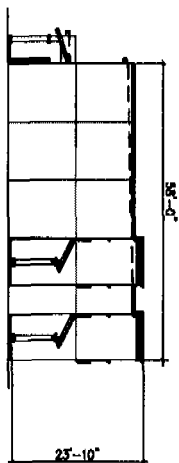
BUILDING "A" ELEVATION



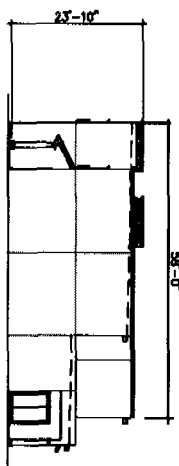
FRONT ELEVATION



REAR ELEVATION



LEFT ELEVATION



RIGHT ELEVATION

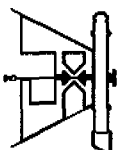
SHEET 07 OF 10

PUEBLO CONDOMINIUMS

PHASE I

SCALE: 1" = 30'

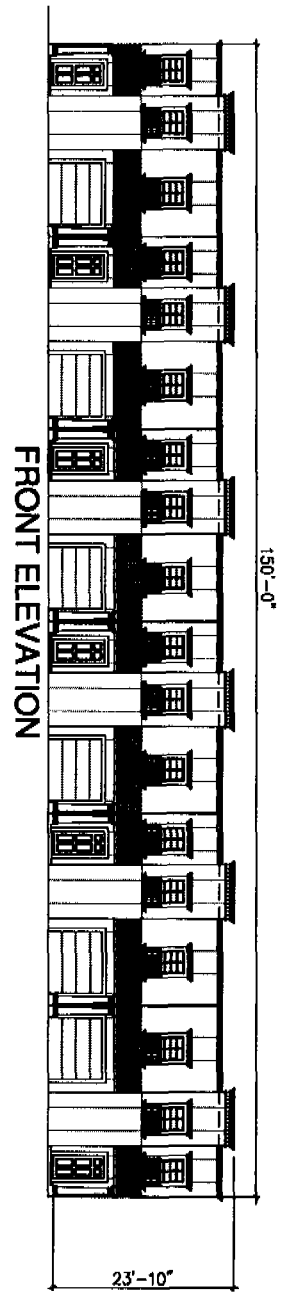



FRANK X. SPENCER & ASSOCIATES, INC.
 Consulting Civil Engineers & Land Surveyors
 1120 MONTANA
 EL PASO, TX 79902
 Tel: 915-333-4800

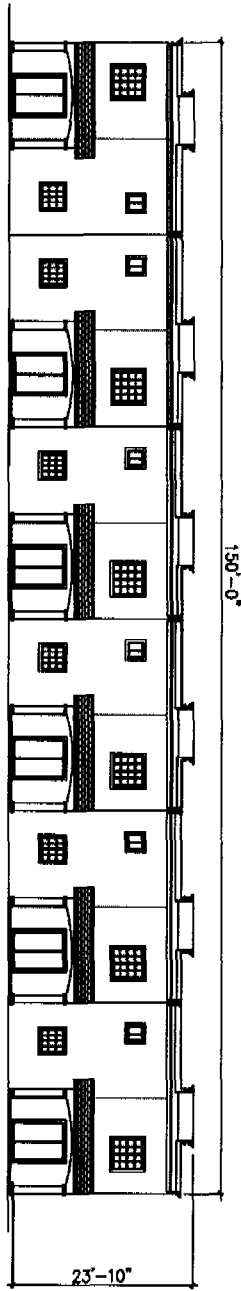
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**POOR QUALITY ORIGINAL
BEST AVAILABLE IMAGE**

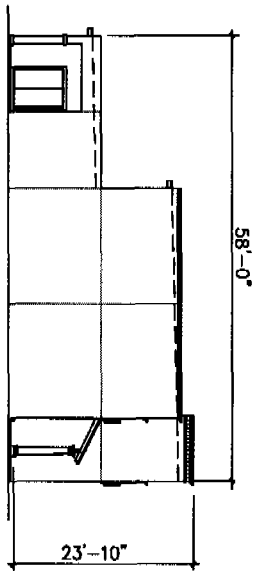
BUILDING "D" ELEVATION



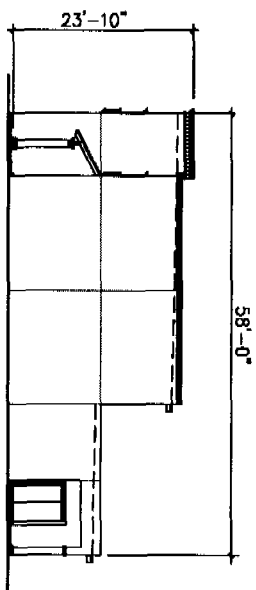
FRONT ELEVATION



REAR ELEVATION



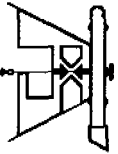
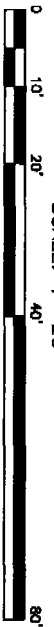
LEFT ELEVATION



RIGHT ELEVATION

PUEBLO CONDOMINIUMS PHASE I

SCALE: 1" = 20'



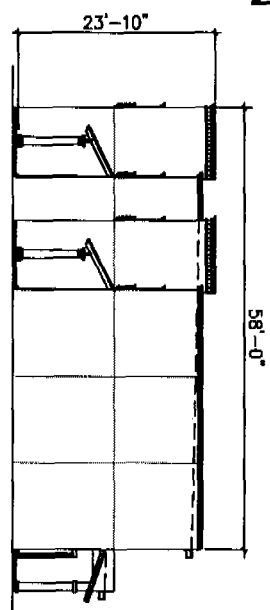
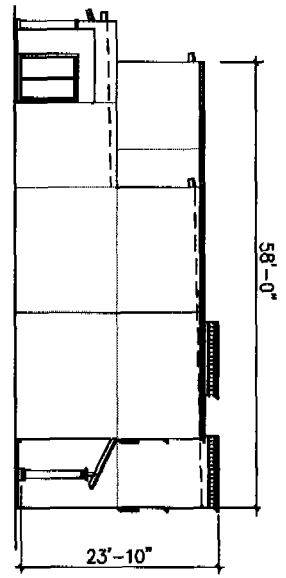
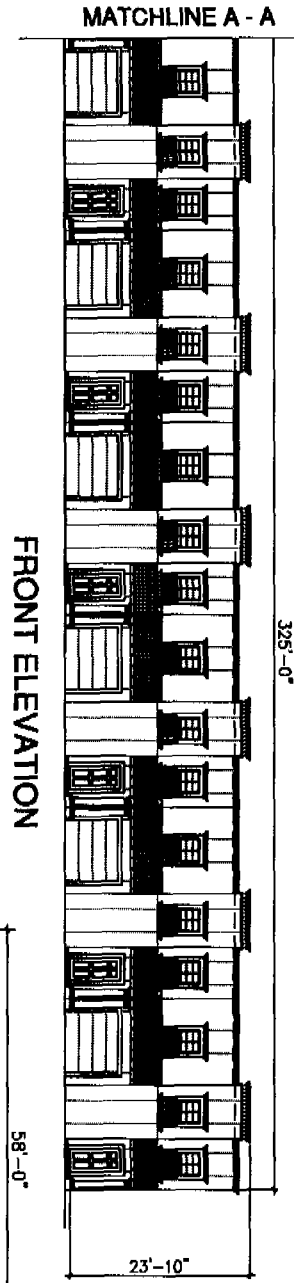
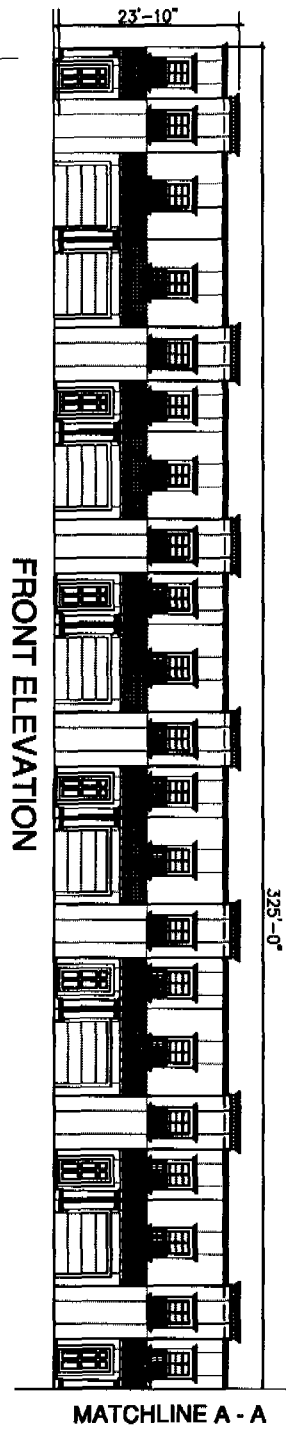
FRANK X. SPENCER & ASSOCIATES, INC.
Consulting Civil Engineers & Land Surveyors
1130 MCINTOSH
EL PASO, TX 79902
Tel: 915-633-4800

drawn by: DADDBERS

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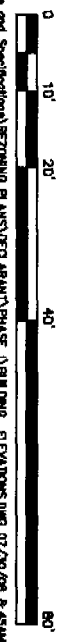
POOR QUALITY ORIGINAL
BEST AVAILABLE IMAGE

BUILDING "E" ELEVATION



RIGHT ELEVATION
 SHEET 09 OF 10
PUEBLO CONDOMINIUMS
 PHASE I

SCALE: 1" = 20'

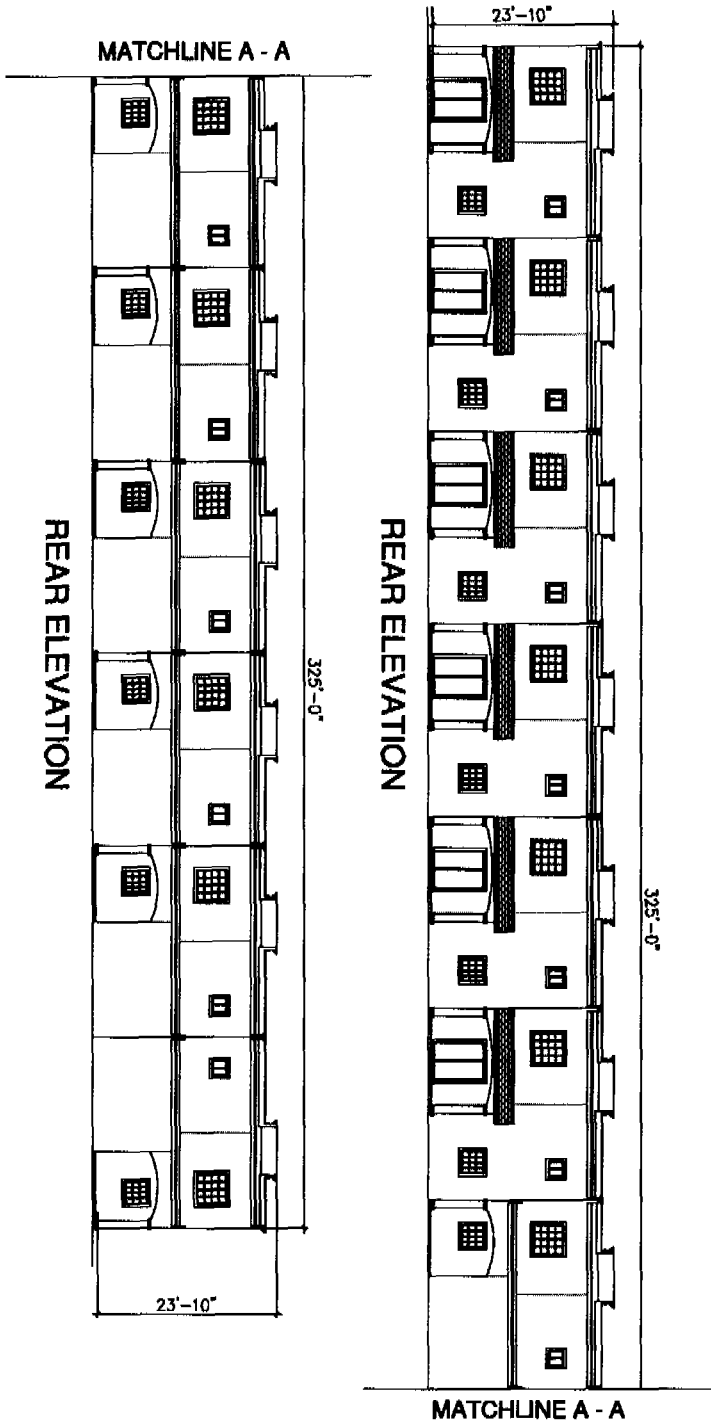


FRANK X. SPENCER & ASSOCIATES, INC.
 Consulting Civil Engineers & Land Surveyors
 1130 MONTANA
 EL PASO, TX 79902
 TEL: 915-533-4800

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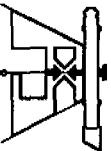
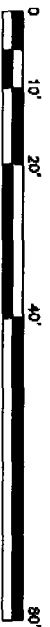
**POOR QUALITY ORIGINAL
 BEST AVAILABLE IMAGE**

BUILDING "E" ELEVATION



SHEET 10 OF 10
PUEBLO CONDOMINIUMS
 PHASE I

SCALE: 1"=20'



FRANK X. SPENCER & ASSOCIATES, INC.
 Consulting Civil Engineers & Land Surveyors
 1120 MONTANA
 EL PASO, TX 79902
 Tel: 915-433-4800

J:\2008\Projects_Pueblo_Condominium\Plans and Specifications\MECHANICAL PLANS\SECURITY\PHASE I\BUILDING ELEVATIONS.DWG 07/20/08 8:46AM

**POOR QUALITY ORIGINAL
 BEST AVAILABLE IMAGE**

AFTER RECORDING RETURN TO:



**Robert D. Burton, Esq.
Armbrust & Brown, L.L.P.
100 Congress Ave., Suite 1300
Austin, Texas 78701**

**PUEBLO CONDOMINIUMS
FIRST AMENDMENT TO
SECOND AMENDED DECLARATION
(A Residential Condominium in El Paso County, Texas)**

**Cross reference to that certain Second Amended Declaration – Pueblo Condominiums
recorded under Document No. 20070058515, Official Public Records of El Paso County, Texas.**

HOME OWNERS' ASSOCIATION PUEBLO CONDOMINIUMS, INC.

DECLARANT APPOINTMENT OF OFFICERS

Pursuant to the terms and provisions of the Texas Uniform Condominium Act (the "Act") and that certain Second Amended Declaration – Pueblo Condominiums recorded under Document No. 20070058515, Official Public Records of El Paso County, Texas (the "Declaration"), EPT PUEBLO CONDOMINIUMS, L.P., a Texas limited partnership and the "Declarant" pursuant to the Declaration may, during currently appoint, remove and replace any officer of the Association.

In accordance with the power granted to it as the "Declarant" under the Act and the Declaration, the Declarant hereby appoints the following individuals as officers of the Association:

Frank X. Spencer – President

Greg Foster – Secretary


All prior appointments are hereby revoked.

EXECUTED TO BE EFFECTIVE on the 29th day of July, 2008.

DECLARANT:

EPT PUEBLO CONDOMINIUMS, L.P., a Texas limited partnership

By: EPT Pueblo Management, LLC, a Texas limited liability company, its General Partner

By: 
Printed Name: Frank X. Spencer
Title: Manager

Doc# 20080064812

#Pages 29 #NFPages 1
08/08/2008 03:43 PM

Filed & Recorded in
Official Records of
EL PASO COUNTY
DELIA BRIONES
COUNTY CLERK
Fees \$128.00

30

I hereby certify that this instrument was filed on the date and time stamped hereon by me and was duly recorded by document number in the Official Public Records of Real Property in El Paso County.



EL PASO COUNTY, TEXAS

Delia Briones