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CONDOMINIUM DECLARATION
FOR
SUTTON PLACE I TOWNHOUSES

This Condominium Declaration for SUTTON PLACE I TOWNHOUSES (the "Declaration") made this _____ day of _____, 1973, by SUTTON PLACE JOINT VENTURE (the "Declarant"), acting by and through its Co-Venturers, GELMO DEVELOPERS, INC. and LILMAC, INC., both Texas corporations, as follows:

W I T N E S S E T H:

1. RECITALS AND DECLARATION.

1.1. Recitals.

(a) Declarant is the owner of the following described tract of land, together with the improvements thereon, located in El Paso County, Texas, to-wit:

A portion of A. F. Miller Survey No. 212, El Paso County, Texas, containing 3.192 acres, more or less, being more particularly described by metes and bounds in Exhibit "A" attached hereto, which is made a part hereof for all purposes;

such land and improvements thereon being hereinafter collectively referred to as the "Project."

(b) Declarant is desirous of submitting the Project to a condominium regime pursuant to the terms of the Texas Condominium Act, Art. 1301a, Vernon's Annotated Texas Statutes (the "Act").

1.2. Declaration.

(a) Declarant does hereby declare the Project to be a condominium regime pursuant to the Act, which shall be known as SUTTON PLACE I TOWNHOUSES. The Project shall hereafter be subject to the covenants, restrictions, limitations, conditions and uses of this Declaration, which shall run with the land, shall be binding upon Declarant, its successors and assigns, and any person or entity acquiring an interest in the Project, their grantees, heirs, devisees, personal representatives, successors and assigns.

(b) Declarant hereby divides the Project into the following separate freehold estates:

(1) 45 separately designated and legally described freehold estates hereinafter defined and referred to as "Units."

(2) A freehold estate consisting of the remaining portion of the Project hereinafter defined and referred to as the "Common Areas."

all as more particularly described in Exhibit "B" attached hereto (the "Map"), which is made a part hereof.

2. DEFINITIONS.

As used herein or elsewhere in any documents affecting the Project, unless otherwise provided or unless the context provides otherwise, the following terms shall be defined as stated:

2.1. Unit. "Unit" shall mean and refer to the elements of a Condominium which are not used in common with Owners of other Condominiums. The boundaries of a Unit shall be the interior surfaces of its perimeter walls, floors, ceilings, and the exterior surfaces of the balconies and/or terraces appurtenant to the Unit. The Unit shall include both the portions of the Building so described and the airspace so encompassed.

2.2. Condominium. "Condominium" shall mean an estate in real property consisting of (a) the separate fee ownership of a Unit and (b) the fee ownership of an undivided interest as a tenant in common of the Common Areas.

2.3. Common Areas. "Common Areas" shall mean the entire Project, except for those portions thereof which lie within the boundaries of any Unit.

2.4. Limited Common Areas. "Limited Common Areas" shall mean those portions of the Common Areas which are limited to and reserved for the exclusive use of individual Owners.

2.5. Owner. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a Condominium.

2.6. Association. "Association" shall mean SUTTON PLACE I TOWNHOUSES ASSOCIATION, INC., a Texas non-profit corporation, of which each Owner shall be a Member.

2.7. Member. "Member" shall mean a member of the Association.

2.8. Board of Directors. "Board of Directors" shall mean the board of directors of the Association.

2.9. Building. "Building" shall mean a single building containing Units as shown on the Map.

2.10. Common Expenses. "Common Expenses" shall mean (a) the expenses of, or reasonable reserves for, the maintenance, management, operation, repair and replacement of the Common Areas as to which it is the responsibility of the Association to maintain, repair and replace, including the cost of unpaid Special Assessments; (b) the cost of capital improvements to the Common Areas which the Association may from time to time authorize; (c) the expenses of management and administration of the Association, including without limitation, compensation paid by the Association to a manager, or accountants, attorneys, or other employees or agents; and (d) any other item or items designated by or in accordance with other provisions of this Declaration or the By-Laws of the Association to be Common Expenses, and any other expenses reasonably incurred by the Association on behalf of all Owners.

2.11. Special Expenses. "Special Expenses" shall mean (a) the expenses incurred by the Association for the repair of damage or loss to the Common Areas or the property of other Owners caused by the act or neglect of an Owner which is not covered by insurance; (b) the expense of repair or reconstruction of a building damaged or destroyed by fire or other casualty for which there shall be insufficient or no insurance coverage and the repair or reconstruction of which will directly benefit less than all of the Owners; and (c) any other item or items designated by or in accordance with other provisions of this Declaration or the By-Laws of the Association to be Special Expenses.

2.12. Common Assessment. "Common Assessment" shall mean an assessment for Common Expenses.

2.13. Special Assessment. "Special Assessment" shall mean an assessment for Special Expenses.

2.14. Mortgage. "Mortgage" shall mean the conveyance of any Condominium to secure the payment of a debt, which conveyance shall be released or reconveyed upon the due payment of such debt, and shall include a Deed of Trust.

2.15. Mortgagee. "Mortgagee" shall mean a person or entity to whom a Mortgage upon a Condominium is given and shall include the beneficiary of a Deed of Trust.

2.16. Rules and Regulations. "Rules and Regulations" shall mean the Rules and Regulations governing use of the Common Areas and the recreational facilities thereon, duly adopted by the Association.

3. COMMON AREAS.

3.1. Percentage of Ownership. The Common Areas shall be owned by each Owner as a Tenant in common in the percentage interest designated and assigned to each Unit in Exhibit "C" attached hereto, which is made a part hereof. The respective undivided interests in the Common Areas hereby established are to be conveyed with the respective Units and cannot be separated therefrom. Each undivided interest shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the conveyance or Mortgage may refer only to the fee title to the Unit.

3.2. Member's Easement of Enjoyment. Each Owner shall have a right and non-exclusive easement of enjoyment in and to the Common Areas, and such easement shall be appurtenant to and shall pass the title to every assessed Condominium, subject to the following provisions:

(a) The right of the Association to limit or exclude the number of guests of Owners.

(b) The right of the Association to charge reasonable admission and other fees for the temporary use of any recreational facility situated upon the Common Areas.

(c) The right of the Association to suspend the right to use the recreational facilities upon the Common Areas by an Owner (i) for any period during which such Owner shall be delinquent in the payment of assessments due the Association or during which he shall remain in default of any other obligation herein provided, and (ii) for any period not to exceed thirty (30) days for a single infraction of the Rules and Regulations. Provided, however, except for failure to pay assessments, no such suspension shall be effected until the Owner shall have been given the opportunity to present evidence on his behalf at a hearing before the Board of Directors, and no such hearing shall be held until the Owner shall have received at least ten (10) days written notice specifying the nature of the charges against him and the exact time and place of the hearing.

3.3. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Areas to the members of his family who reside with him in his Condominium, and to his tenants or contract purchasers who reside in his Condominium. Such Owner shall notify the Association in writing of the name of any such delegee. The rights and privileges of such delegee shall be subject to suspension in the same manner and to the same extent as those of the Owner.

3.4. Easement for Encroachments. If any portion of the Common Areas encroaches upon a Unit or Units, or if any portion of a Unit encroaches upon the Common Areas or upon an adjoining Unit or Units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the Common Areas or on the Units for the purpose of marketability of title or any other purpose.

4. LIMITED COMMON AREAS.

4.1. Carports. The covered parking spaces (the "Carports") designated on the Map shall be limited to and reserved for the

exclusive use of those Owners who shall rent same from the Association upon such terms and conditions as the Board of Directors shall from time to time decide. The rental income derived therefrom shall be used to reduce the Common Assessments.

4.2. Patio Areas. The yard and patio areas appurtenant to a Unit which are enclosed by a fence (the "Patio Areas") shall be limited to and reserved for the exclusive use of the Owner of such Unit. The boundaries of a Patio Area shall be the exterior surface of the terrace of a Unit and the interior surface of the fence enclosing same.

5. MAINTENANCE OF PROJECT.

5.1. Duties of Association. The Association shall have the responsibility of maintaining, repairing, replacing, and otherwise keeping in a first-class condition all portions of the Project not required in this Article to be maintained by the Owners.

5.1.1. Access to Units. The Association's agents and employees shall have the right to enter each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Areas therein or accessible therefrom; provided, however, that such right of access shall be immediate for making emergency repairs therein in order to prevent damage to the Common Areas or to another Unit. If requested by the Association, each Owner shall furnish to the Association a duplicate key to the entrance door to his Unit and shall furnish a new duplicate key upon any change of locks thereto.

5.1.2. Damage to Units. Damage to the interior or any part of a Unit resulting from the maintenance, repair, emergency repair or replacement of any of the Common Areas or as a result of emergency repairs within another Unit shall be Common Expenses;

provided, however, that if such damage is caused by the negligent or tortious acts of an Owner, member of his family, his agent, employees, invitees, licensees or tenants, then such Owner shall be responsible and liable for all of such damage, which shall be considered a Special Expense.

5.2. Duties of Owners. An Owner shall be obligated to repair, replace and maintain in good repair and condition (a) the Fixtures (as hereinafter defined) within his Unit; (b) the finished interior surfaces of the perimeter walls, ceilings, floors, doors and windows within his Unit, including, but not limited to, such materials as gypsum dry wall, paneling, wallpaper, paint, wall and floor tile and flooring (but not including the sub-flooring); (c) the balconies and/or terraces of his Unit to the exterior surfaces of same; and (d) his Patio Area. An Owner shall also have the responsibility of replacing all broken windows and repairing and replacing (and painting the exterior surfaces of) all doors in the perimeter walls of his Unit. Provided, however, the repair, replacement and maintenance required by this Section of those areas which are exposed to public view shall be done in a manner consistent with the decor of the Project and shall be subject to the control and direction of the Association. No owner shall disturb or relocate any Utilities (as hereinafter defined) running through his Unit nor shall any Owner do any act which will impair the structural soundness of the Building or impair any easement herein granted or reserved.

5.2.1. Definition of Utilities. By the term "Utilities" as used in this Article is meant the lines, pipes, wires, conduits or systems located within the walls of a Building, which are a part of the Common Areas.

5.2.2. Definition of Fixtures. By the term "Fixtures" as used in this Article is meant the fixtures and equipment within a Unit commencing at the point where they connect with the Utilities.

6. OWNER'S RIGHTS WITHIN UNIT.

6.1. Coverings. An Owner shall have the right to change coverings (including carpeting, tile, wallpaper, paint, and so forth) of the floors, walls and ceilings of his Unit without the permission of the Association. Such coverings shall be the property of an Owner and may be removed from his Unit by such Owner, provided that such removal does not cause damage to the Common Areas.

6.2. Fixtures and Appliances. An Owner shall be the Owner of the light fixtures, plumbing fixtures, washing machine, clothes dryer, refrigerator, stove, oven, dishwasher and cabinets, located within his Unit. Such fixtures and appliances may be removed by the Owner, provided that such removal does not cause damage to the Common Areas.

6.3. Common Areas. No Owner may alter or change any of the Common Areas (including his Patio Area), whether or not same shall be appurtenant to his Unit, without the prior written consent of the Association.

7. ASSOCIATION.

7.1. Administration of Project. The Project shall be administered by the Association, acting by and through its Board of Directors, who shall be elected in accordance with the By-Laws of the Association, and whose duties will be governed by the terms of the Act, this Declaration, and the Articles of Incorporation and By-Laws of the Association. The Association shall have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association.

7.2. Membership. Each Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of a Condominium. Ownership of a Condominium shall be the sole qualification for membership. The membership

held by an Owner shall not be transferred, pledged or alienated in any way, except upon the sale or encumbrance of such Condominium, and then only to the purchaser or Mortgagee of such Condominium. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. Evidence of transfer of membership shall be furnished the Association in the form of a certified copy of the recorded conveyance of a Condominium by the current Owner thereof as reflected upon the books and records of the Association.

7.3. Voting Rights. The Association shall have two classes of voting membership with the voting rights hereinafter indicated:

Class A Members. Class A Members shall be all Owners with the exception of Declarant and shall be entitled to one (1) vote for each Condominium in which they hold the interest required for membership. When more than one person holds such interest or interest in any Condominium, all such persons shall constitute one member, and the one (1) vote for such Condominium shall be exercised as they among themselves shall determine, but in no event shall more than one vote be cast with respect to any such Condominium.

Class B Members. Declarant, and its successors and assigns, shall be a Class B Member and shall be entitled to three (3) votes for each Condominium owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(1) When the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership, or

(2) On July 31, 1975.

Transfer of title to a Condominium by Declarant to another entity which does not constitute a

sale or sales to individual Owner residents shall not convert Declarant's Class B Membership into a Class A Membership.

7.4. Suspension of Voting Rights. The voting rights of any Member shall be automatically suspended during any period in which he shall be delinquent in the payment of assessments due the Association and for any period during which his right to use the recreational facilities upon the Common Areas shall have been suspended by the Board of Directors, as provided in Section 3.2(c) hereof.

7.5. Board of Directors. The Board of Directors of the Association shall be not less than five (5) in number. The original Board of Directors shall be composed of the following:

Louis J. Gelfand, of El Paso, Texas
Michael R. Moses, of El Paso, Texas
John K. McCready, of Denver, Colorado
Allen T. Cadman, of Denver, Colorado
James F. Garner, of El Paso, Texas

who shall commence to serve at the time of recordation of this Declaration and shall serve until their successors are elected pursuant to provisions of the By-Laws of the Association. Such original Directors shall serve at the pleasure of Declarant and may be removed from office at any time by Declarant and during said period Declarant shall have authority, in its sole discretion, to fill any vacancies created or existing on said Board.

7.6. Rules and Regulations. The Association shall have the power to establish and enforce compliance with Rules and Regulations and to amend same from time to time. A copy of such Rules and Regulations shall be delivered or mailed to each Member promptly upon the adoption thereof.

7.7. Architectural Control Committee. The Association shall have the authority to appoint an Architectural Control Committee and to delegate to such committee such power and authority to control and supervise to the extent and in such manner as shall be specified in the By-Laws of the Association the activities of individual Owners with respect to their Units and the Common

Areas herein declared to be subject to the control and supervision of the Association.

8. INSURANCE.

8.1. Property Insurance. The Association shall obtain and pay the premiums upon, as a Common Expense, a policy of insurance on all improvements in the Project and all personal property within the Common Areas (except the personal property individually owned by one or more Owners and improvements to Units added by the Owners thereof) in an amount equal to the maximum insurable replacement value thereof, affording protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and such other risks as may from time to time be customarily insured against with respect to improvements similar in construction, location and use, including by way of example, vandalism and malicious mischief. Such policy shall be issued in the name of the Association, as Insured, with loss payable in favor of the Association, as Trustee for each Owner and his Mortgagee, if any, who shall be beneficiaries thereof (even though not named therein) in the percentages of Common Area Ownership established as to each Unit in Exhibit "B" hereto. Certificates of insurance shall be issued to each Owner and Mortgagee upon request. Such policy shall not be cancelable until after thirty (30) days notice to each Owner and Mortgagee. The proceeds of such policy shall be received by the Association and held in a separate account for distribution to the Owners and their Mortgagees (subject to the provisions of the Act, this Declaration and the Association By-Laws) as their interests may appear; provided, however, when repair or reconstruction of the Project shall be required as provided in Article 9 hereof, such proceeds shall be applied to such repair or reconstruction.

8.2. Public Liability and Property Damage. The Association shall purchase broad form Comprehensive Liability coverage in such amounts and in such forms deemed appropriate by it. This coverage shall be issued in the name of the Association and shall

include Owners in their capacity as Members of the Association as additional insureds and evidence thereof shall be furnished to each additional insured. Coverage under this policy shall include, but not be limited to, legal liability of the Association for bodily and personal injuries, property damage, operation of automobiles on behalf of the Association and activities of the Association in connection with the operation, maintenance or use of the Common Areas.

8.3. Workmen's Compensation Insurance. The Association shall purchase Workmen's Compensation in such form as to meet the requirements of law for injuries to Association employees.

8.4. Owners' Insurance. Each Owner, and not the Association, shall have the responsibility of obtaining and keeping in full force and effect, at his sole expense, (i) standard fire and extended risk insurance on the personal property and furnishings contained in his Unit or located on the Common Areas, and on any improvements added to his Unit by an Owner thereof; (ii) broad form Comprehensive Liability coverage for his Unit (which shall be in addition to and not in lieu of the Comprehensive Liability coverage required to be purchased by the Association); and (iii) such other insurance as he may elect to purchase in addition to the insurance coverage purchased by the Association; provided, however, that in no event is the insurance coverage purchased by the Association to be brought into contribution with insurance purchased by Owners.

8.5. Waiver of Subrogation. In the event of loss or damage to the Common Areas or the property of an Owner which shall be covered by insurance, the insurance company paying such claim shall have no right of subrogation against the Association, its agents and employees, nor the Owners, their tenants, or members of their respective households.

8.6. Power of Attorney. Each Owner hereby irrevocably names, constitutes and appoints the Association as his true and lawful attorney-in-fact for the purpose of maintaining such insurance

policies. Without limiting the generality of the foregoing, the Association, as said attorney-in-fact, shall have full power and authority, in the name, place and stead of each Owner, to purchase and maintain such insurance, to collect and remit the premiums therefor (which shall be considered Common Expenses), to collect proceeds thereof, and to distribute the same to the Association, the Owners and their respective Mortgagees (subject to the provisions of the Act and this Declaration) as their interests may appear, to execute releases of liability and to execute all documents and to do all things on behalf of the Association and such Owners as shall be necessary or convenient to accomplish the powers herein granted, and any insurer may deal exclusively with the Association in regard to such matters. The Association shall not be responsible for procurement or maintenance of any insurance covering the contents or the interior of any Unit nor the liability of any Owner for occurrences therein not caused by or connected with the Association's operation, maintenance or use of the Condominium Project.

9. RECONSTRUCTION OR REPAIR OF IMPROVEMENTS.

9.1. When Reconstruction Required. If less than two-thirds (2/3) of all Buildings and the other Common Area improvements in the Project shall be damaged by fire or other casualty, then the Project shall be repaired or reconstructed. If more than two-thirds (2/3) of such improvements shall be destroyed, then reconstruction or repair shall be effected only with the unanimous consent of all Owners. The extent of damage shall be determined solely by the Board of Directors, and its decision in this regard shall be final and conclusive.

9.2. Restoration of Common Areas. When reconstruction or repair of the Common Areas shall be required, the same shall be accomplished by the Association, and each Owner does hereby irrevocably name, constitute and appoint the Association as his true and lawful attorney-in-fact for the purpose of accomplishing such reconstruction or repair, hereby granting to such Association,

acting by and through its duly authorized officers and agents, full and complete authorization, right, and power to make, execute and deliver, in his name, place and stead, any contract, and any other instrument with respect to the interest of such Owner which is necessary and appropriate to accomplish the powers herein granted. Such reconstruction or repair shall be substantially in accordance with this Declaration and the original plans and specifications of the Project unless the Owners shall unanimously decide otherwise.

9.3. Repair of Units. Each Owner shall be responsible for the reconstruction, repair or replacement of the interior of his Unit, including, but not limited to, the floor coverings, wall coverings, window shades, draperies, interior walls, furniture, furnishings, decorative light fixtures, and all appliances located therein. Each Owner shall also be responsible for the costs, not otherwise covered by insurance carried by the Association, of any reconstruction, repair or replacement of any portion of the Project necessitated by his negligence or misuse or the negligence or misuse of his guests, agents, employees or contractors, which shall be considered Special Expense. In the event damage to all or any part of the interior of a Unit is covered by insurance held by the Association for the benefit of such Owner, then such Owner shall begin reconstruction, repair or replacement of his Unit upon receipt of the insurance proceeds, or any portion thereof, from the Association. In the event such damage is not covered by insurance held by the Association for the benefit of such Owner, then such Owner shall begin reconstruction, repair or replacement of his Unit within sixty (60) days after the date of such damage. All reconstruction, repair or replacement of the interior of a Unit required under this paragraph shall be subject to the control and supervision of the Association during the course thereof.

9.4. Cost of Repairs.

9.4.1. Estimate of Repairs. As soon as possible after the occurrence of a casualty which causes damage

to any part of the Project for which the Association has insurance coverage (hereinafter referred to as the "Casualty"), the Association shall obtain reliable and detailed cost estimates of (i) the cost of restoring all damage caused by the Casualty to the Common Areas (hereinafter referred to as the "Common Area Costs"); and (ii) the cost of restoring that part of the damage caused by the Casualty to each Unit which is or would be covered by insurance held by the Association without regard to the policy limits of such insurance (hereinafter referred to as the "Unit Costs").

9.4.2. Application of Insurance Proceeds.

All insurance proceeds available to the Association with respect to the Casualty shall first be applied to the payment of actual Common Area Costs and the balance thereof, if any, shall thereafter be applied to the payment of the actual Unit Costs. However, if such insurance proceeds are not sufficient to cover such estimated costs, then an assessment shall be made against the Owners by the Association in the following manner:

(i) All Owners shall be assessed on the basis of their percentage of ownership in the Common Areas for the payment of the estimated Common Area Costs not otherwise paid for by insurance held by the Association, which shall be considered Common Expenses.

(ii) Each Owner of a damaged Unit shall be assessed an amount equal to the difference between his estimated Unit Costs and a sum calculated by multiplying the amount, if any, of the remaining insurance proceeds held by the Association with respect to the Casualty by a fraction, the numerator of which is his estimated Unit Costs and the denominator of which is the total of all of the estimated Unit Costs, which shall be considered Special Expenses.

9.5. Eminent Domain. In the event of a taking by eminent domain of part or all of the Common Areas, the award for such.

taking shall be payable to the Association, which shall represent the Owners named in the condemnation proceedings. Said award shall be utilized to the extent possible for the repair, restoration, replacement and/or improvement of the remaining Common Areas. Any funds not so utilized shall be applied in payment of Common Expenses otherwise assessable to the Members of the Association. In the event of a taking by eminent domain of all or a part of a Unit, the award made for such taking shall be payable to the Owner and his Mortgagee, if any, as their interests may appear.

10. ASSESSMENTS.

10.1. Annual Budget. Not less than thirty (30) days prior to the commencement of each fiscal year (which shall commence on the first day of the month in which the sale of the first Condominium by Declarant is closed, unless and until a new fiscal year is established by the Association) the Board of Directors (or those named herein as constituting the original Board of Directors in the event the Association has not been formed at such time) shall establish an annual budget for such fiscal year, including therein all anticipated items of Common Expense together with a reasonable reserve for contingencies. Copies of the annual budget shall be delivered to each Owner, but the failure of an Owner to receive same shall not affect his liability for the payment of any existing or future assessment.

10.2. Annual Common Assessment. By the adoption of the annual budget by the Board of Directors there shall be established an annual Common Assessment for the payment of which each Owner (including Declarant) shall be personally liable in the same percentage as his percentage ownership in the Common Areas as established in Exhibit "C" hereof. Each Owner shall pay his percentage share in even monthly installments of one-twelfth (1/12) thereof on the first day of each month during the fiscal year. The first monthly installment, or pro rata portion thereof, of such annual Common Assessment shall be due and payable by an Owner upon delivery of his deed to a Condominium. In addition,

each Owner (other than Declarant), may be required to deposit and to maintain up to three (3) monthly installments of his share of the annual Common Assessment, without interest, which sum shall be used by the Association as a reserve for paying such Owner's share of the annual Common Assessment, for purchase of equipment and supplies and for working capital. Such advance payment shall not relieve an Owner from making the regular monthly payment of his share of the annual Common Assessments as the same shall become due. Upon the sale of his Condominium, an Owner shall be entitled to a credit from his grantee for any unused portion thereof. If the annual budget is not adopted as herein required, a monthly payment in the amount required by the annual budget for the previous fiscal year shall continue to be due and payable by each Owner until time as the annual budget for the current fiscal year is established, at which time the annual Common Assessment so established shall become retroactive to the commencement of such current fiscal year.

10.3. Additional Common Assessments. Should the Board of Directors at any time determine, in their sole discretion, that the annual Common Assessment is insufficient to pay the Common Expenses for the current fiscal year, the Board of Directors may at any time and from time to time levy such additional Common Assessments as they shall deem necessary for such purpose or purposes. Each Owner (including Declarant) shall be personally liable for the payment of such additional Common Assessments in the same proportionate share as he shall have personal liability for the payment of the annual Common Assessment. Such additional Common Assessments shall be due and payable at such time and in the manner as the Board of Directors, in their sole discretion, shall determine. Provided, however, in the event an additional Common Assessment shall be for the purpose of making additions, alterations or capital improvements to the Common Areas costing more than TEN THOUSAND (\$10,000.00) DOLLARS, such additional Common Assessment shall require the approval by two-thirds (2/3)

of the votes of both Class A and Class B Members present and entitled to vote at an annual or special meeting of the Members called for such purpose at which a quorum is present.

10.4. Special Assessments. Special Assessments may be levied by the Board of Directors against particular Owners for the payment of Special Expenses. Such Special Assessments shall be due and payable to the Association upon demand. Provided, however, no Special Assessments shall be levied against an Owner until he shall have been given the opportunity to present evidence on his behalf at a hearing, and no such hearing shall be held until such Owner shall have received at least ten (10) days written notice specifying the reasons for the proposed Special Assessment and the exact time and place of the hearing.

10.5. Delinquent Assessments. The payment of an assessment shall be considered delinquent if not paid upon the due date thereof and shall bear interest from such date at the rate of ten (10%) percent per annum until paid. The Association shall also be entitled to collect a late charge in such amounts and upon such conditions as the Board of Directors may from time to time determine. Each Owner (whether one or more) shall be and remain personally liable for the payment of all assessments which may be levied against such Owner by the Association in accordance with the terms and provisions of this Declaration until same shall be paid in full, both principal and interest. In the event of sale or conveyance of a Condominium the purchaser of same shall be entitled to pay same out of the sales price and, failing this, such purchaser shall become personally liable for payment of such delinquent assessments by his acceptance of a deed to such Condominium from an Owner in default.

10.6. Vendor's Lien. In each deed of a Condominium by Declarant to an Owner there shall be expressly reserved a Vendor's Lien (the "Vendor's Lien") to secure payment of all assessments due and to become due pursuant to this Declaration, which Vendor's

Lien shall be transferred and assigned therein to the Association. By the acceptance of a deed from Declarant each Owner (and his subsequent grantees) assume and agree to pay such assessments in accordance with the terms and provisions of this Declaration.

10.7. Subordination of Vendor's Lien. If any Condominium subject to the Vendor's Lien reserved for the payment of assessments due and to become due pursuant to the terms of this Declaration shall be subject to the lien of a recorded mortgage: (i) the foreclosure of the Vendor's Lien reserved herein shall not operate to affect or impair the lien of such recorded mortgage; and (ii) the foreclosure of the lien of the recorded mortgage or the acceptance of a deed in lieu of foreclosure thereof, shall not operate to affect or impair the Vendor's Lien reserved herein, except that to the extent said Vendor's Lien shall secure delinquent assessments accrued to the time of foreclosure or acceptance of the deed in lieu of foreclosure the same shall be subordinate to the lien of such recorded mortgage, with the foreclosure-purchaser or foreclosure-grantee and its subsequent grantees taking title free of the Vendor's Lien reserved herein for the payment of all delinquent assessments that have accrued up to the time of foreclosure or the acceptance of the deed in lieu of foreclosure, but subject to such Vendor's Lien for the payment of all assessments which shall become due subsequent to the date of foreclosure sale or the date of acceptance of a deed in lieu of foreclosure. All assessments which shall have become due up to such date and not have been paid shall be deemed to be Common Expenses collectible from all Owners, including the Owner of the Unit acquired at the foreclosure sale or as the result of the acceptance of the deed in lieu of foreclosure, in the manner provided herein.

10.8. No Exemptions. No Member may exempt himself from liability for assessments duly levied by the Association, nor release the Condominium owned by him from the liens and charges hereof, by waiver of the use and enjoyment of the Common Areas and the facilities thereon or by abandonment of his Condominium.

10.9. Commingling of Assessments. Except as otherwise expressly provided herein, all sums collected by the Association from assessments may be commingled in a single fund, and without the necessity of a specific accounting for each element of Common Expense or Special Expense for which such assessments have been made.

10.10. Assessment Roll. The assessments against all Owners shall be set forth upon a roll of the Units which shall be available in the office of the Association for inspection at all reasonable times by Owners or their duly authorized representatives. Such Assessment Roll shall indicate for each Unit the name and address of the Owner or Owners, the assessments for all purposes and the amounts of all assessments paid and unpaid. A certificate made by the manager or the Board of Directors as to the status of an Owner's assessment account shall limit the liability of any person for whom made other than the Owner. The Association shall issue such certificates to such persons as an Owner may request in writing and shall be entitled to charge a reasonable fee therefor in such amount as shall be determined by the Board of Directors from time to time.

10.11. Collection of Assessments. The Association may, in addition to its rights under Section 18 of the Act, enforce collection of delinquent assessments by suit at law for a money judgment and may seek judicial foreclosure of the Vendor's Lien reserved herein. Failure to seek judicial foreclosure of such Vendor's Lien in any suit at law for a money judgment shall not operate to waive such Vendor's Lien, but same shall remain in full force and effect to secure payment of all assessments due or to become due by such Owner.

11. MORTGAGES.

11.1. Notices. Any Owner who mortgages his Condominium shall furnish the Association the name and address of such Mortgagee, and the Association shall maintain such information in a book entitled "Mortgages of Condominiums." The Association

shall report to such Mortgagee any unpaid assessments due from the Owner of such Condominium at the same time as the Association makes demand of the Owner thereof for the payment of such assessment. Each Mortgagee shall also be entitled to written notification from the Association of any other default by its Owner-Mortgagor in the performance of such Owner's obligations under the terms and provisions of this Declaration which shall not have been cured within thirty (30) days after written notice to such Owner-Mortgagor by the Association specifying such default.

11.2. Delinquent Assessments. A Mortgagee may, but shall not be required to, pay any delinquent assessments due upon the mortgaged Condominium, and the amount of such payment shall be added to the mortgage indebtedness. Failure to pay any assessment when due and payable by an Owner-Mortgagor shall constitute a default under the terms and provisions of the mortgage instrument, authorizing foreclosure of the lien created therein, at the option of the Mortgagee.

12. RESTRICTIVE COVENANTS.

12.1. Residential Use. Each Unit shall be occupied and used by its Owner only as a private dwelling for the Owner, his family, tenants and social guests, and for no other purpose.

12.2. Alterations. No Owner shall make structural alterations or modifications to his Unit or to any of the Common Areas, including, but not limited to, the erection of antennas, aerials, awnings, the placement of any reflective or other material in the windows of his Unit or other exterior attachments without the written approval of the Association. The Association shall not approve any alterations, decorations or modifications which would jeopardize or impair the soundness, safety or appearance of the Project.

12.3. Temporary Structures. No structures of a temporary character, trailer, tent, shack, or other out-building shall be used or permitted to be kept or stored by an Owner on any portion of the Common Areas or within his Unit in such a manner

as to be exposed to public view, at any time either temporarily or permanently.

12.4. Improper Activities. No immoral, improper, unlawful or offensive activities shall be carried on in any Unit or upon the Common Areas, nor shall anything be done which may be or become an annoyance or nuisance to the Owners. No Owner shall store any dangerous explosives or inflammable materials either in his Unit or upon the Common Areas, or permit anything to be done or keep or permit to be kept in his Unit or on the Common Areas anything that will increase the rate of insurance on the Project.

12.5. Signs. No signs or other advertising devices shall be displayed which are visible from the exterior of any Unit or on the Common Areas, including "For Sale" signs, except in conformity with the Rules and Regulations promulgated by the Board of Directors.

12.6. Use of Common Areas. The Common Areas shall not be used for storage of supplies, personal property or trash or refuse of any kind except common trash receptacles placed at the discretion of the Association, nor shall the Common Areas be used in any way for the drying, shaking or airing of clothing or other fabrics. Stairs, entrances, sidewalks, yards, driveways, and parking areas shall not be obstructed in any way nor shall unauthorized persons use them for other than their intended purposes. In general, no activities shall be carried on nor condition maintained by any Owner either in his Unit or upon the Common Areas which despoils the appearance of the Project.

12.7. Minors. No person under the age of seventeen (17) may reside continuously in any Unit for a period of more than six (6) weeks.

12.8. Pets. No animals shall be kept in the Project except household pets not exceeding 20 pounds in weight. Such pets may not be kept or bred for any commercial purpose and shall have such care and restraint so as not to be obnoxious or offensive on account of noise, odor or unsanitary conditions. No savage or dangerous animals shall be kept. No more than one household

pet may be kept in any Unit without written permission of the Association. No pets shall be permitted to run loose upon the Common Areas, and any Owner who causes any animal to be brought upon the Project shall indemnify and hold harmless the Association and/or the Owners from and against any loss, damage or liability which they may sustain as the result of the presence of such animal on the premises, whether or not the Association has given its permission therefor.

12.9. Limitation During Sales Period. None of the restrictions contained in this Article 12 shall apply to the commercial activities, signs or billboards, if any, of the Declarant during the sales period of the Condominiums or to the activities of the Association in furtherance of its powers and purposes set forth herein and in its Articles of Incorporation and By-Laws, as the same may be amended from time to time.

13. DEFAULT.

13.1. Definition. Failure to comply with any of the terms of this Declaration, the Articles of Incorporation or By-Laws of the Association, or the duly adopted Rules and Regulations of the Association, shall constitute an event of default and shall be grounds for relief, which may include without limitation an action to recover sums due for damages and injunctive relief, or any combination thereof.

13.2. Remedies. In addition to all other remedies herein contained or as may be provided by law, the Association may discontinue the furnishing of any utilities or other services to an Owner who is in default of his obligations to the Association or other Owners as set forth herein upon thirty (30) days written notice to such Owner and to any Mortgagee of such Owner's Unit of its intent to do so.

13.3. Costs. In any proceeding arising because of any alleged default by any Owner, the Association, if successful, shall be entitled to recover the costs of the proceedings and reasonable attorneys' fees from such Owner.

13.4. No Waiver. The failure of the Association or of

any Owner to enforce any right, provision, covenant or condition which may be granted by the Act, this Declaration, the Articles of Incorporation or By-Laws of the Association, or the Rules and Regulations, shall not constitute a waiver of the right of the Association or of any such Owner to enforce such right, provision, covenant or condition in the future.

13.5. Rights Cumulative. All rights, remedies and privileges granted to the Association or any Owner pursuant to the provisions of the Act, this Declaration, the Articles of Incorporation or By-Laws of the Association, or the Rules and Regulations, shall be deemed to be cumulative and the exercise of any one or more of such rights, remedies and privileges shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges, as may be available to such party at law or in equity.

14. GENERAL PROVISIONS.

14.1. Acceptance of Governing Rules. The Association, all present or future Owners, tenants or future tenants, or any other persons using the facilities of the Project are subject to and shall comply with the Act, this Declaration, the Articles of Incorporation and By-Laws of the Association, and the Rules and Regulations, and the acquisition, occupancy or rental of a Unit shall signify that all such documents are accepted and ratified. In the event of a conflict in any of the provisions of any such documents, the documents shall govern or control in the following order or preference: (i) the Act; (ii) this Declaration; (iii) the Articles of Incorporation of the Association; (iv) the By-Laws of the Association; and (v) the Rules and Regulations.

14.2. Delivery of Notices. All notices or other documents required herein to be delivered by the Association to Owners may be delivered either personally or by mail. If delivered personally, same shall be deemed to have been delivered when actually received by the Owner or when left at the front door of his Unit. If mailed, same shall be deemed delivered when deposited in the

United States Mail addressed to the Owner at his address as it appears on the records of the Association, with postage thereon prepaid.

14.3. Severability. If any of the provisions of this Declaration or any paragraph, sentence, clause, phrase or word, or the application thereof in any circumstance be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any provisions, paragraph, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

14.4. Paragraph Titles. Paragraph titles used in this Declaration are for convenience of reference and are not intended to limit, enlarge or change the meaning of the contents of the various paragraphs.

IN WITNESS WHEREOF, Declarant has duly executed this Declaration on the day and year herein first above written.

SUTTON PLACE JOINT VENTURE

BY: GELMO DEVELOPERS, INC.

BY: _____
President

BY: LILMAC, INC.

BY: _____
President

THE STATE OF TEXAS)
)
COUNTY OF EL PASO)

BEFORE ME, the undersigned authority, in and for El Paso County, Texas, on this day personally appeared _____, _____ President of GELMO DEVELOPERS, INC., a corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said GELMO DEVELOPERS, INC., a corporation, and that he executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this _____ day of _____, 1973.

Notary Public in and for
El Paso County, Texas

EXHIBIT "A"

3.192 acres out of A. F. Miller Survey No. 212, El Paso County, Texas and more particularly described by metes and bounds as follows:

FROM a point, said point lying on the Southerly survey line of the A. F. Miller Survey 212, said point being also the Northeasterly survey corner of the A. F. Miller Survey 214 and also being the Northeasterly survey corner of the A. F. Miller Survey 215 in the City of El Paso, El Paso County, Texas;

THENCE East along the Southerly survey line of the A. F. Miller Survey 212 a distance of 132.98 feet to a point in the Easterly right-of-way line of Shadow Mountain Drive;

THENCE 50.04 feet along the Easterly right-of-way line of Shadow Mountain Drive and along the arc of a curve to the right whose central angle is $1^{\circ} 34' 24''$, the radius being 1822.08 feet and whose long chord bears North $7^{\circ} 38' 28''$ East a distance of 50.04 feet;

THENCE North $8^{\circ} 25' 40''$ East and continuing along the Easterly right-of-way line of Shadow Mountain Drive a distance of 759.52 feet;

THENCE 283.13 feet along the Easterly right-of-way line of Shadow Mountain Drive and along the arc of a curve to the left whose central angle is $28^{\circ} 57' 18''$, the radius being 560.27 feet and whose long chord bears North $6^{\circ} 02' 59''$ West a distance of 280.13 feet to the Point of Beginning;

THENCE 303.57 feet along the Northeasterly right-of-way line of Shadow Mountain Drive and along the arc of a curve to the left whose central angle is $31^{\circ} 02' 42''$, the radius being 560.27 feet and whose long chord bears North $36^{\circ} 02' 59''$ West a distance of 299.88 feet;

THENCE North $51^{\circ} 34' 20''$ West along the Northerly right-of-way line of Shadow Mountain Drive a distance of 9.28 feet;

THENCE 31.40 feet along the arc of a curve to the right whose central angle is $89^{\circ} 57' 56''$, the radius being 20.00 feet and whose long chord bears North $06^{\circ} 35' 22''$ West a distance of 28.28 feet to a point on the Easterly right-of-way line of Thunderbird Drive;

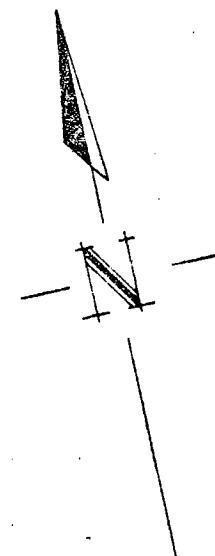
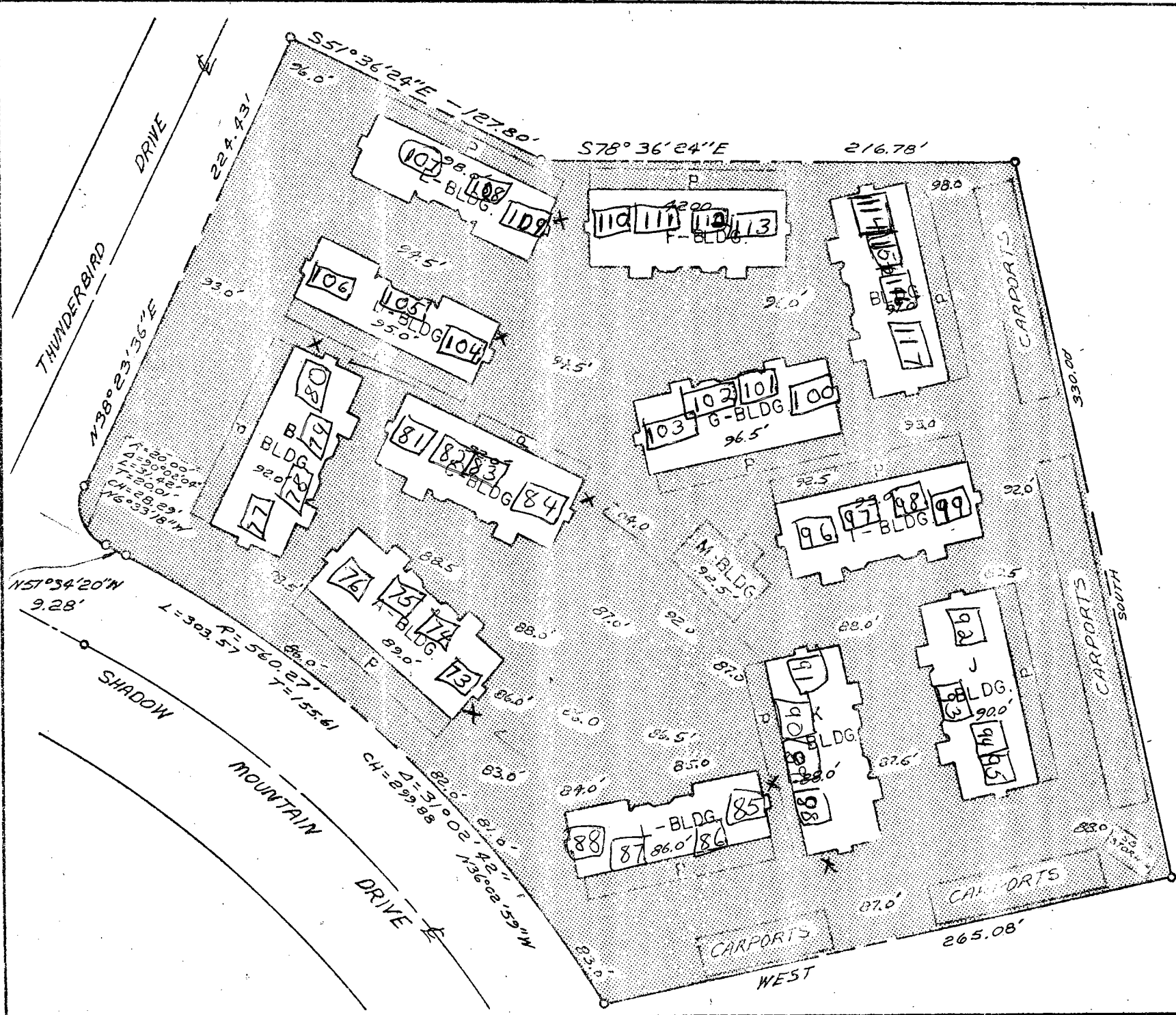
THENCE North $38^{\circ} 23' 36''$ East along the Easterly right-of-way line of Thunderbird Drive a distance of 224.43 feet;

THENCE South $51^{\circ} 36' 24''$ East a distance of 127.80 feet to a point, said point being the Southwesterly property corner of the Junior League Building Site;

THENCE South $78^{\circ} 36' 24''$ East along the Southerly property line of the Junior League Building Site a distance of 216.78 feet;

THENCE South a distance of 330.00 feet;

THENCE West a distance of 265.08 feet to the Point of Beginning, and containing in all 3.192 acres of land, more or less.



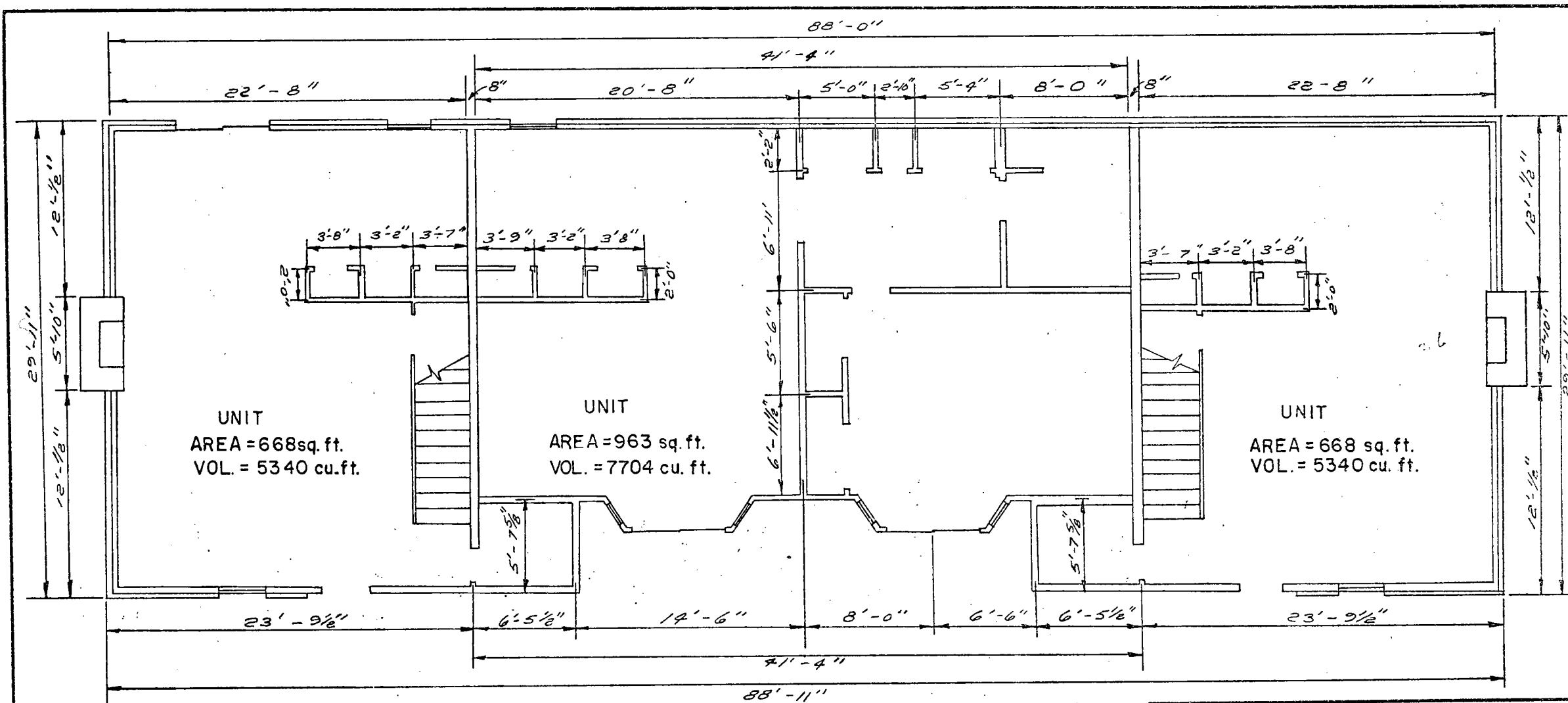
COMMON AREAS — [stippled box]
 "P" INDICATES PATIO AREA
 PATIO AREAS AND CARPORTS
 ARE LIMITED COMMON AREAS

A PORTION OF A.F.
 MILLER SURVEY N:212
 EL PASO,
 EL PASO COUNTY, TEXAS
 AREA = 3,1854 AC.

SUB LAND INC. ENGINEERS LAND DEVELOPERS EL PASO, TEXAS	
COMPUTED: A.F.V.	DRAWN: A.F.V.
SCALE: 1" = 60'	DATE: 10-8-73

SUTTON PLACE UNIT 1 TOWNHOUSES

BUILDING	UNIT	UNIT AREA (FT ²)	% OF COMMON AREA
A	73	1588	2.29%
	74	1500 ✓	2.16%
	75	1500 ✓	2.16%
	76	1588	2.29%
B	77	1588	2.29%
	78	1500 ✓	2.16%
	79	1500 ✓	2.16%
	80	1588	2.29%
C	81	1588	2.29%
	82	1500 ✓	2.16%
	83	1500 ✓	2.16%
	84	1588	2.29%
D	104	1829	2.62%
	105	963 ✓	1.39%
	106	1829	2.62%
E	107	1829	2.62%
	108	963 ✓	1.39%
	109	1829	6.62%
F	110	1588	2.29%
	111	1500 ✓	2.16%
	112	1500 ✓	2.16%
	113	1588	2.29%
G	100	1588	2.29%
	101	1500 ✓	2.16%
	102	1500 ✓	2.16%
	103	1588	2.29%
H	114	1588	2.29%
	115	1500 ✓	2.16%
	116	1500 ✓	2.16%
	117	1588	2.29%
I	96	1588	2.29%
	97	1500 ✓	2.16%
	98	1500 ✓	2.16%
	99	1588	2.29%
J	92	1588	2.29%
	93	1500 ✓	2.16%
	94	1500 ✓	2.16%
	95	1588	2.29%
K	88	1588	2.29%
	89	1500 ✓	2.16%
	90	1500 ✓	2.16%
	91	1588	2.29%
L	85	1829	2.62%
	86	963 ✓	1.39%
	87	1829	2.63%



SUTTON PLACE | TOWNHOUSES
 FIRST FLOOR BUILDING
 TOTAL FLOOR AREA = 2547 sq. ft.
 EL PASO, TEXAS

SUB - LAND INC.
 ENGINEERS LAND DEVELOPERS
 EL PASO, TEXAS

COMPUTED: A.V.	DRAWN: A.V.
SCALE: 1/8" = 1'	DATE: 11-7-73