

I-2015-002365 Book 1117 Pg: 18  
04/15/2015 10:11 am Pg 0018-0049  
Fee: \$ 75.00 Doc: \$ 0.00  
Cheryl Trammel - Cherokee County Clerk  
State of Oklahoma



**EDGEWATER ADDITION**

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

**TABLE OF CONTENTS**

ARTICLE I DEFINITIONS ..... 1

ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION  
 AND ADDITIONS THERETO ..... 3

    2.1 Declaration of Property..... 3

    2.2 Additional Land ..... 3

ARTICLE III MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION ..... 4

    3.1 Membership ..... 4

    3.2 Voting Rights..... 4

ARTICLE IV COMMON AREAS ..... 5

    4.1 Conveyance of Common Areas ..... 5

    4.2 Reservation of Rights ..... 5

    4.3 Use of Common Areas..... 6

    4.4 No Exclusive Use ..... 6

    4.5 Operation ..... 6

ARTICLE V COVENANT FOR ASSESSMENT ..... 6

    5.1 Creation of Lien and Personal Obligations of Assessments ..... 6

    5.2 Regular Assessments ..... 7

    5.3 Special Emergency Assessments..... 8

    5.4 Assessments for Liabilities and Charges ..... 8

    5.5 Payment of Assessments..... 8

    5.6 Maintenance Fund ..... 8

    5.7 Reserve Fund ..... 8

    5.8 Non-payment of Assessments: Lien Rights, Remedies ..... 8

    5.9 Parties Not Subject to Assessments ..... 9

ARTICLE VI PLAN REVIEW COMMITTEE..... 10

    6.1 Approval Requirement..... 10

    6.2 The Declarant’s Rights of Appointment..... 10

    6.3 Review of Proposed Construction ..... 10

    6.4 Meetings of the Plan Review Committee ..... 11

    6.5 No Waiver of Future Approvals ..... 11

    6.6 Inspection of Work ..... 11

    6.7 No Liability of Committee..... 12

    6.8 Variances ..... 12

    6.9 Fees..... 13

ARTICLE VII PROTECTIVE COVENANTS ..... 13

    7.1 Purpose of Protective Covenants ..... 13

    7.2 Land Use and Building Type..... 13

7.3	Further Subdividing.....	13
7.4	Fronting and Access Limitation.....	13
7.5	Setbacks, Building Limits and Yards .....	13
7.6	Drainage.....	14
7.7	Dwelling Size .....	14
7.8	Stone, Stucco, or Brick Construction .....	14
7.9	Roofing Guidelines.....	14
7.10	Driveways.....	14
7.11	Garage.....	15
7.12	Detached Buildings Garages.....	15
7.13	Utilities and Telecommunications .....	15
7.14	Restricted Structures and Prohibition of Alteration.....	16
7.15	Building Materials and Completion Timeline .....	16
7.16	Maintenance Preceding and After Construction.....	16
7.17	Exterior Landscaping and Maintenance .....	16
7.18	Flagpoles, Flags, Exterior Decorations and Yard Ornaments.....	17
7.19	Fencing and Fence Restrictions .....	17
7.20	Satellite Dishes and Antennas .....	18
7.21	Swimming Pools, Hot Tubs and Spas.....	18
7.22	Vehicles: Parking, Storage and Restrictions.....	18
7.23	Nuisances.....	19
7.24	Animals and Crops .....	19
7.25	Trash and Garbage Disposal.....	19
7.26	Mailboxes .....	20
7.27	Signs .....	20
7.28	Basketball Goals, Sports and Playground Equipment .....	20
7.29	Common Area.....	20
7.30	Drilling.....	20
7.31	Residential Leases .....	20
7.32	Exemption of Declarant.....	21
ARTICLE VIII VIOLATION OF RESTRICTIVE COVENANTS.....		21
8.1	Violation of These Restrictions .....	21
ARTICLE IX MAINTENANCE OF LOTS AND STRUCTURES.....		21
9.1	Maintenance by Owner.....	21
9.2	Maintenance by Association.....	21
ARTICLE X PROPERTY OWNERS ASSOCIATION .....		22
10.1	Creation .....	22
10.2	Purposes.....	22
10.3	Powers .....	22
10.4	Board of Trustees.....	23
10.5	Records .....	23
10.6	Principal Office.....	24
10.7	Registered Service Agent .....	24
10.8	Enforcement.....	24

ARTICLE XI GENERAL PROVISIONS ..... 24

    11.1 Validity of Restrictions..... 24

    11.2 Term of Restrictions ..... 24

    11.3 Amendment of Restrictions by Owners..... 24

    11.4 Notice..... 24

Exhibits:

- A Description of the Property
- A-1 Description of the Additional Land

**EDGEWATER ADDITION**

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

THIS DECLARATION dated the 15<sup>th</sup> day of April, 2015 (the "Effective Date"), by DJ Jamal, LLC, an Oklahoma limited liability company, having a mailing address at 718 S. East Avenue, Tahlequah, Cherokee County, Oklahoma 74464 (the "Declarant").

**RECITALS**

A. Declarant owns a 65.04 acre tract of land, more or less, located in Cherokee County, Oklahoma. The tract consists of all of the land described on Exhibit "A" attached hereto and made a part hereof and shown on the subdivision plat entitled "EDGEWATER ADDITION," an addition to the City of Tahlequah, Cherokee County, Oklahoma, recorded in Plat Book 1117, at Page 17 in the office of the County Clerk of Cherokee County, Oklahoma ("Plat").

B. The Declarant desires to subject the Property, and the lots located therein (the "Lots"), to the covenants, conditions and restrictions set forth below which are for the purpose of protecting the value and desirability of the Property and the Lots, and are for the purpose of distributing among the Lot Owners the cost of maintaining and operating the Common Areas located within the Property, and any improvements constructed thereon.

C. Declarant hereby declares that the Property shall be held, sold and conveyed subject to the covenants, conditions and restrictions set forth below.

**ARTICLE I**

**DEFINITIONS**

1.1 "Additional Land" is defined in Article 2.2(a).

1.2 "Association" shall mean the Edgewater Property Owners Association.

1.3 "Bylaws" shall mean the duly adopted Bylaws of the Association, as the same may be amended, changed or modified from time to time.

1.4 "Board of Trustees" or "Board" shall mean the Board of Trustees of the Association as selected pursuant to the provisions of the Bylaws.

1.5 "Common Area" shall mean those areas of land designated on the recorded subdivision Plat of the Property as "Reserve Area A," "Reserve Area B," "Reserve Area C," "Reserve Area D" and "Reserve Area E," and all improvements thereon, including, but not limited to, streets, landscaping, masonry columns and walls, pumps, landscape lights and fixtures, irrigation systems, walking areas, fencing and parking areas, the main gated entrance at East Fourth Street and the gate operating equipment.

1.6 "Common Expenses" shall mean the following:

(a) Expenses of administration, maintenance, repair or replacement of the Common Areas to the extent such expenses are to be borne by the Association under the terms of this Declaration;

(b) Expenses of maintenance and repair of property and improvements adjacent to the Property for the common use of all Lot Owners as agreed upon by the Board of Trustees;

(c) Expenses agreed upon as common expenses by the Board of Trustees;  
and

(d) Expenses declared common by the provisions of the Declaration or by the Bylaws in force as of date hereof or as they may later be amended.

1.7 "Declarant" shall mean DJ Jamal, LLC, an Oklahoma limited liability company, and Declarant's successors and assigns.

1.8 "Declaration" shall mean this instrument, by which the Property is submitted to the provisions of 60 Okla. Stat. §§8 50-856, together with such amendments to this instrument as may hereafter from time to time be lawfully made.

1.9 "Effective Date" is defined in the preamble.

1.10 "Lot Owner" or "Owner" shall mean the person, or legal entity, or the combination thereof, including contract sellers, holding the record fee simple or perpetually renewable leasehold title to a Lot in the Property, as the Lot is now or may from time to time hereafter be created or established. If more than one person, or other legal entity or any combination thereof, holds the record title to any Lot, all of them shall be deemed a single record owner and shall be a single member of the Association by virtue of their ownership of the Lot. The term "Lot Owner" or "Owner", shall not mean any contract purchaser, nor shall it include any mortgagee or other person or legal entity holding an interest in a Lot as security for the performance of an obligation.

1.11 "Majority of Lot Owners" shall mean the owners of more than fifty percent (50%) of the votes of the Association as determined by Article III. Any specified percentage of Lot Owners means such percentage in the aggregate of such ownership of Lots.

1.12 "Person" shall mean an individual, corporation, partnership, limited liability company, association, trust or other legal entity, or any combination thereof.

1.13 "Plan Review Committee" or "Committee" shall mean the committee formed and operated pursuant to Article VI of the Declaration.

1.14 "Plans" shall mean all of the submittals required by Article 6.1 for consideration by the Plan Review Committee.

1.15 "Plat" is defined in paragraph A of the Recitals.

1.16 "Property" shall mean all of the land described on Exhibit "A" attached hereto, being the same parcel of real property shown on the "Plat of Edgewater Addition" more

particularly referred to in Paragraph A of the Recitals to this Declaration and such Additional Land as may be subjected to this Declaration under the provisions of Article II below.

1.17 "Residence" shall mean a Structure constructed for occupancy by a Single Family for Residential Use.

1.18 "Residential Use" shall mean use of a Residence in conformity with the Declaration and the requirements imposed by applicable zoning laws or other municipal, county or state rules and regulations; provided, however, the restriction of Residential Use shall not prohibit an Owner from maintaining a home office within a Residence so long as such office is not open to the public or business invitees.

1.29 "Single Family" shall mean one or more individuals each related to the other by blood, marriage, legal adoption or legal guardianship, or a group of not more than three (3) individuals not all so related, who maintain a common household in a Residence.

1.20 "Structures" shall mean any improvement constructed on a Lot whether or not the same is habitable including, without limitation, any residence, driveway, parking areas, walkways, decks, gazebos, mailbox, outbuildings, retaining wall and exterior lighting.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS THERETO

**2.1 Declaration of Property.** Declarant hereby declares that all the Property is held and shall be held, conveyed, encumbered, leased, rented, used, occupied and improved subject to the following limitations, covenants, conditions, restrictions, reservations, liens and charges, all of which are hereby declared and established and agreed to be in furtherance of a general plan and scheme for the sale of Lots, pursuant to the provisions of 60 Okla. Stat. §§ 850-856, and all of which are declared and established for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Property. All of said limitations, covenants, conditions, reservations, liens, charges, and restrictions are hereby established and imposed upon the Property for the benefit thereof and for the benefit of each and every individual Lot comprising a part thereof and of each ownership of one or more Lots, now or in the future, and the owners of any interest of any kind or character in Lots, the Property, or any portion thereof. All of said limitations, liens, covenants, conditions, reservations, charges, and restrictions shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in any Lot, the Property or any part thereof, whether as sole owner, joint owner, lessee, tenant, occupant, successor, trustee, assigns or otherwise.

#### **2.2 Additional Land.**

(a) Declarant hereby expressly reserves unto Declarant, its successors and assigns, the option and right to expand the Property at any time and from time to time to annex and include all or portions of the real property more particularly described in Exhibit "A-1" attached hereto in additional phases (the "Additional Land"). The consent of Lot Owners of the Property shall not be required for such expansion to include all or any part or parts of the Additional Land and the Declarant may proceed with such expansion at Declarant's sole option. Further, by acceptance of a warranty deed to a Lot, the Lot Owner shall be deemed conclusively

to have consented to the expansion provided for herein, including the modification of the percentage interests in the Common Areas, if accomplished in accordance herewith.

(b) Additional Land may be subjected to this Declaration in the following manner:

(i) Declarant and Declarant's successors and assigns, shall have the right for thirty (30) years from the date of this Declaration to bring within the operation and effect of this Declaration additional portions of the Additional Land more particularly described on Exhibit "A-1" attached as a part of this Declaration.

(ii) The additions authorized under Article 2.2(a) shall be made by recording in the office of the County Clerk of Cherokee County, Oklahoma, a supplement to this Declaration, which need be executed only by Declarant and the owner of such additional land if Declarant is not the owner thereof, which shall describe the additional land and state that it is subject to this Declaration. The additions authorized by Article 2.2(a) shall not require the approval of the Association.

(iii) Any such Supplement to this Declaration may contain such complementary additions and modifications of the covenants, conditions and restrictions contained herein as may be necessary to reflect the different character, if any, of the Additional Land, provided they are not inconsistent with this Declaration. In no event, however, shall the supplement to this Declaration revoke, modify or add to the covenants, conditions, and restrictions established by this Declaration insofar as they pertain to the Property as the same exists prior to the supplement.

(c) Following any annexation as herein described, the Additional Land shall be subject to all limitations, covenants, conditions, restrictions, reservations, liens and charges contained herein, with the same effect as though the Additional Land were a part of the Property as of the date and initial recording hereof; provided, however, the fencing of any property line of the Additional Land that does not adjoin the property line of any Lot need not comply with the covenants in Section 7.19. In no event shall the supplemental declaration modify the limitations, covenants, conditions, restrictions, reservations, liens and charges as contained in this Declaration with respect to the existing Property. After any such annexation, each Lot Owner shall be a member of and shall be entitled to representation in the Association in proportion to the undivided interest in the Common Areas which then appertains to such Owner's Lot.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

**3.1 Membership.** Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of the Lot.

**3.2 Voting Rights.** The Association shall have two classes of voting membership.

(a) *Class A.* Except for Declarant (which shall initially be a Class B Member), the Class A members shall be all of the Owners of the Lots. Each Class A member shall be entitled to one (1) vote per Lot, for each Lot owned by it, in all proceedings in which action shall be taken by members of the Association.



(b) *Class B.* The Class B member shall be the Declarant. The Class B member shall be entitled to three (3) votes per Lot for each Lot owned by it, in all proceedings in which action shall be taken by members of the Association.

(c) The vote of any Class A member comprised of two or more persons, or other legal entities, or any other combination thereof, shall be cast in the manner provided for in the Articles of Association of the Association, or as the several constituents may determine, but in no event shall all such constituents cast more than one vote per Lot for each Lot owned by them.

(d) The Class B membership in the Association shall cease and be converted to Class A membership in the Association on the twentieth (20<sup>th</sup>) anniversary of the date of this Declaration or at such earlier time as the total number of votes entitled to be cast by Class A members of the Association equals or exceeds the total number of votes entitled to be cast by the Class B member of the Association. Provided, however, the Class B Membership shall be revived (and Declarant shall again be entitled to three votes for each Lot owned by Declarant) during any periods of time occurring before the twentieth (20<sup>th</sup>) anniversary of the date of the Declaration, when by reason of the annexation of Additional Land as a part of the Property additional Lots owned by Declarant exist which, when added to the other Lots then owned by Declarant, would result in Declarant having more than 50% of the votes of the Association were Declarant to have three (3) votes for each Lot owned by Declarant instead of only a single vote for each Lot owned by Declarant. Notwithstanding any provision of this Section 3.2(d) or any other provision of this Declaration to the contrary, Declarant may at any time elect to convert all or part of its Class B membership interest to Class A.

#### ARTICLE IV

#### COMMON AREAS

**4.1 Conveyance of Common Areas.** Declarant shall grant and convey to the Association, and the latter shall take and accept from the Declarant, the Common Areas shown on a the Plat which is subject to this Declaration, not later than the date the first Lot shown on the Plat which is improved by a dwelling is conveyed to an Owner. At the time of the conveyance the Common Areas shall be free of any mortgages, judgment liens or similar liens or encumbrances.

**4.2 Reservation of Rights.** The Association shall hold the Common Areas conveyed to it subject to the following:

(a) The reservation to Declarant, of the right to lay, install, construct and maintain, on, over or in those strips across land designated on the subdivision Plat, as a "Reserve Area," "Utility Easement," "Drainage Easement," "Drainage and Utility Easement", or otherwise designated as an easement area, or on, over, under, or in any portion of any Common Area, pipes, drains, mains, conduits, lines and other facilities for water, storm sewer, sanitary sewer, gas, electric, telephone and other public utilities or quasi-public utilities deemed necessary or advisable to provide adequate service to any Lot now or hereafter laid out or established on the Property, or the area in which the same is located, together with the right and privilege of entering upon any Common Area for such purposes and making openings and excavations therein.

(b) The reservation to Declarant of the right to enter upon any Common Area conveyed to the Association for the purpose of construction or completing the construction of Structures and the landscaping of the Common Area.

(c) The reservation to Declarant of the right to continue to use and maintain any storm water management ponds and any sediment control ponds or facilities located on any Common Area conveyed to the Association.

**4.3 Use of Common Areas.** The Common Areas conveyed to the Association shall be deemed property and facilities for the use, benefit and enjoyment, in common, of each Owner and the owner of the Additional Land and their respective family members, guests, invitees, contractors and agents, and the same shall be appurtenant to and shall pass with the title of each respective Lot and the Additional Land; provided however, such right of use shall not give any person (excluding the Declarant and the Association), the right to make alterations, additions or improvements to the common improvements. Except as otherwise permitted by the provisions of this Declaration, no Structures or improvement of any kind shall be erected, placed or maintained on any Common Area except: (i) Structures or improvements designed exclusively for community use, including, without limiting the generality of the foregoing, shelters, benches, chairs or other seating facilities, fences and walls, walkways, roadways, waterfalls and playground equipment, and (ii) drainage, storm water and utility systems and Structures. The Common Areas may be graded, and trees, shrubs or other plants may be placed and maintained thereon for the establishment, retention or preservation of the natural growth or topography of the Common Areas, or for aesthetic reasons.

**4.4 No Exclusive Use.** No portion of any Common Area may be used exclusively by any Owner for personal gardens, storage facilities or other private uses without the prior written approval of the Association.

**4.5 Operation.** The Association shall improve, develop, supervise, manage, operate, examine, inspect, care for, repair, replace, restore and maintain the Common Areas as from time to time improved, together with any items of personal property placed or installed thereon, all at its own cost and expense. All utility and other expenses resulting from activities with respect to the Common Areas shall be paid by the Association.

## ARTICLE V

### COVENANT FOR ASSESSMENT

**5.1 Creation of Lien and Personal Obligations of Assessments.** Each Lot Owner, by acceptance of a deed to a lot, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (1) regular monthly assessments or charges, (2) emergency assessments, and special assessments for liabilities and charges payable by a Lot Owner pursuant to the terms of this Declaration, such assessments to be fixed, established and collected from time to time as hereinafter provided. Such assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge and a lien on the Lot against which such assessment is made, and all appurtenances thereto, which lien is created and shall be enforced in accordance with the provisions of this Article; provided, however, such lien shall be subordinate to the lien of the first mortgage against the Lot. Each such assessment (and all assessments levied in accordance with this Declaration), together with late charges, interest, costs, penalties, and reasonable attorney's fees, as provided

for by this Declaration, shall also be the joint and several personal obligation of each person who was an Owner of such Lot at the time when such assessment fell due.

## 5.2 Regular Assessments.

(a) *Regular Monthly Assessment.* As soon as is reasonably practicable after the election of the first Board, the Board shall set the monthly assessments to be assessed for the initial fiscal year against each Lot for the purposes hereinafter specified. Monthly assessments shall be for the period running from the first day of a calendar month to and including the last day of such month. Assessments for each calendar month shall be due and payable by the Lot Owners on the first day of such month. The total of such assessments for all Lots for each fiscal year shall total (i) the estimated expenses of the Association in carrying out the obligations described herein for such fiscal year, for the maintenance, repair, or replacement of Common Areas and other Common Expenses (the "Maintenance Fund Requirement"), plus (ii) an amount, to be determined by the Board, to be set aside during the fiscal year to provide for a reserve fund for the maintenance, repair or replacement of the Common Areas (the "Reserve Fund Requirement").

(b) *Fiscal Year.* The fiscal year shall be the calendar year.

(c) *Increase in Monthly Assessments.* For each fiscal year following the initial fiscal year of the Association, the regular monthly assessment may be increased prior to but effective as of, the beginning of such fiscal year, by the Board without a vote of the members of the Association, provided that any such increase by the Board shall not be more than twenty percent (20%) of the regular monthly assessment in effect during the previous year. The term "regular monthly assessment", as used herein shall mean that monthly assessment set at the beginning of the fiscal year by the Board.

(d) *Increase in Monthly Assessment by Association.* From and after the end of the initial fiscal year of the Association, the regular monthly assessment may be increased by the Board in an amount greater than provided for in Article 5.2(c) of this Article for the succeeding fiscal year, such increase to be made prior to but effective as of the beginning of such fiscal year, provided that any such change shall first be approved by the vote of at least seventy-five percent (75%) of the votes of the Association as determined by Article III, present either in person or by proxy and entitled to vote at a meeting held prior to the commencement of the fiscal year for which such increases to be made and duly called for such purpose, at which a quorum is present, written notice of which will be sent to all members not less than ten (10) days or more than thirty (30) days in advance of the meeting, setting forth the purpose of the meeting. Notice of increase pursuant to this Article 5.2(d) shall be given by the Board to each Owner prior to the commencement of the fiscal year for which such increase is to be effective.

(e) *Certificate of Payment.* The Association shall, upon demand, furnish to any Lot Owner, mortgagee of a Lot Owner, or prospective purchaser of any Lot a certificate in writing signed by an officer of the Association, setting forth whether the assessments on the specified Lot have been paid, and the amount of the delinquency, if any. A reasonable charge may be made by the Board for the issuance of such certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

(f) *Alternative Quarterly or Yearly Assessment.* Upon a determination of a majority of the Board to do so, the assessments provided in this Article 5.2 shall be payable on a quarterly or yearly basis, in advance.

**5.3 Special Emergency Assessments.** In the event that the Board shall determine that its budget for any current month is or will become inadequate to meet all expenses for any reason, including nonpayment of any Owner's assessment on a current basis, it shall immediately determine the appropriate amount of such inadequacy for such month and may levy an emergency assessment for the amount required to meet all such expenses on a current basis against the Owners of each Lot; provided, however, that any such emergency assessment in an amount exceeding One Hundred Dollars (\$100.00) per Lot must first be approved by seventy-five percent (75%) of the votes of the Association as determined by Article III, present either in person or by proxy and entitled to vote at a meeting called for such purposes at which a quorum is present, written notice of which meeting shall be sent to all members not less than ten (10) days nor more than thirty (30) days in advance of the meeting. Emergency assessments levied in accordance with this Article 5.3 shall be due and payable within fifteen (15) days of written notice thereof by the Board.

**5.4 Assessments for Liabilities and Charges.** All charges and liabilities of a Lot Owner to the Association pursuant to the terms of this Declaration shall be assessed against such Lot Owner, without the need for Board action or any further notice.

**5.5 Payment of Assessments.** Each payment of assessments made by a Lot Owner shall first be applied to that portion of such Lot's assessments allocable to the Maintenance Fund Requirement, and the remainder of such payment shall be applied to that portion of such Lot's assessments allocable to the Reserve Fund Requirement.

**5.6 Maintenance Fund.** All collected assessment charges allocable to the Maintenance Fund Requirement shall be properly deposited in a separate commercial bank account in a bank or trust company to be selected by the Board. The Board shall have control of said account and shall be responsible to the Lot Owners for the maintenance of accurate records thereof at all times.

**5.7 Reserve Fund.** All collected assessment charges allocable to the Reserve Fund Requirement shall be properly deposited in a separate commercial banking account in a bank or trust company to be selected by the Board. The Board shall have control over such account and shall be responsible to the Lot Owners for the maintenance of accurate records thereof at all times. The funds in such account may be expended only for expenses incurred by the Association for the maintenance repair, or replacement of the Common Areas.

**5.8 Non-payment of Assessments; Lien Rights, Remedies.** Every Lot Owner is deemed to covenant and agree to pay the assessments provided for in this Declaration and further agrees to the enforcement of such assessments in the manner provided for in this Declaration.

(a) *Delinquency.* Any assessment provided for in this Declaration which is not paid when due shall become delinquent on the date on which such assessment is due (the "date of delinquency"). A late charge of Fifty Dollars (\$50.00) for each delinquent assessment shall be payable with respect to such assessment not paid within five (5) days after the date of delinquency. Assessments not paid within five (5) days after the date of delinquency shall thereafter bear interest at the rate of ten percent (10%) per annum from the date of delinquency and the Board, its attorney or other authorized representative may, at its option, at any time after such period, and in addition to the other remedies herein or by law or in equity provided, enforce the obligation to pay assessments in any manner provided by law or in equity and, without limiting the generality of the foregoing, by any or all of the following procedures:

(i) *Enforcement by Suit.* The Board may cause a suit to be commenced and maintained in the name of the Association against any Owner or Owners, or any of them, personally obligated to pay assessments for such delinquent assessments for which they are personally obligated. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon at the rate of ten percent (10%) per annum from and after the date of delinquency, late charges as provided for by this Declaration, court costs and reasonable attorneys' fees in such amounts as the court might award. Suit to recover a money judgment for unpaid assessments shall be maintainable by the Board, or its authorized agent, without foreclosing or waiving the line hereinafter provided for.

(ii) *Enforcement by Lien.* Any assessment which remains unpaid on the date on which such assessment is due shall be a lien on the Lot for which such assessment is due and all appurtenances thereto. Such lien may be foreclosed by a suit instituted by the Association, its attorney or duly authorized agent. The Association, or its duly authorized agent, shall have the power to bid in at the foreclosure sale and to acquire, hold, lease, mortgage and convey the Lot acquired at such sale; provided, however, in any such foreclosure sale the Association may not bid an amount in excess of any judgment rendered in its favor in such foreclosure action and satisfiable out of the proceeds of such sale.

(b) *Additional Costs Secured by Lien.* In the event the lien described above is foreclosed, reasonable attorneys' fees as the court may award and court costs, abstracting fees, interest at the rate of ten percent (10%) per annum from the date of delinquency, late charges as provided for by this Declaration, and all other costs and expenses shall be allowed to the Association.

(c) *Rights of Association.* Each Owner hereby vests in and delegates to the Association or is duly authorized representative the right and power to bring all actions at law or lien foreclosures, against any Owner or Owners for the collection of delinquent assessments in accordance herewith.

(d) *Purchaser at Foreclosure Sale.* Any purchaser of a Lot at a foreclosure sale and pursuant to an action to foreclose the lien herein provided shall take title to such Lot subject to all the terms, provisions and restrictions of this Declaration and which shall secure all assessments which become due after the date of such sale. For the purpose of this Article a sale of a Lot shall occur on the date when judicial sale is held.

(e) *Purchase by Mortgagee.* In the event the holder of a first mortgage on a Lot obtains title to such Lot as a result of a foreclosure of the mortgage, such mortgagee shall not be liable for the foreclosed Lot's unpaid assessments which accrue after the recording of such mortgage and prior to the acquisition of title to such lot by the mortgage.

**5.9 Parties Not Subject to Assessments.** Nothing contained herein shall impose any obligation on Declarant to pay any assessments levied by the Association nor shall the Association have any power or authority to impose any obligation on Declarant to pay any assessments levied by the Association on Lots owned by Declarant. Moreover, any Lot purchased by a building contractor for the purpose of constructing a Residence in compliance with this Declaration shall not be subject to assessment under this Article V until the earlier of (i) the date the Residence is occupied, or (ii) the date the Lot is conveyed to another Person;

provided however, until the Lot is so conveyed, such building contractor shall remain obligated to comply with all the other obligations of a Lot Owner under this Declaration.

## ARTICLE VI

### PLAN REVIEW COMMITTEE

**6.1 Approval Requirement.** No Structures shall be erected, placed or altered on any Lot until the floor plan, exterior elevation and materials, plot plan (which plot plan shows the location and facing of the Structures on the Lot and the location and identity of all trees to be removed from the Lot) all of which have been drawn by a professional architect or home designer has been approved in writing by the Plan Review Committee. The Committee shall have jurisdiction within the Property. The Plan Review Committee shall consist always of either three members or five members. The initial members of the Committee shall be:

L. Jeff Reasor  
Mitzi Reasor  
Diane Timmons

The Board may reduce the number of members of the Committee to three and increase it to five as often as it wishes. Each member of the Committee shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein. One or more members of the Committee may be removed by the Board at any time without cause.

**6.2 The Declarant's Rights of Appointment.** The Board shall have the right to appoint and remove all members of the Plan Review Committee. For so long as Declarant is entitled to three votes for every one vote to which another person is entitled pursuant to Article 3.2(b) above, Declarant shall have the right to approve or disapprove all members proposed for appointment by the Board. Thereafter, the Board shall have the right to appoint and remove all members of the Committee without Declarant's consent.

**6.3 Review of Proposed Construction.** Whenever in this Declaration the approval of the Plan Review Committee is required, it shall have the right to consider all of the Plans for the improvement or proposal in question and all other facts which in its sole discretion are relevant, including the identity of the general contractor for the construction. Except as otherwise expressly provided herein, prior to commencement of any construction of any Structure, the Plans shall be submitted to the Committee for review. Construction of the Structures may not commence unless and until the Committee has approved such Plans in writing. The Committee shall consider and act upon any and all Plans submitted for its approval pursuant to this Declaration within thirty (30) days after completion of submission of the Plans. Failure to act within thirty (30) days shall be deemed approval of the Plans. The Committee shall also perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with Plans approved by the Committee. The Committee shall approve Plans submitted for its approval only if it deems that the construction, alterations, or additions contemplated thereby in the locations indicated will not be detrimental to the surrounding area as a whole, and that the appearance of any Structures affected thereby will be in harmony with the surrounding Structures. The Committee may condition its approval of Plans on such changes therein as it deems appropriate, and may require submission of additional Plans or other information prior to approving or disapproving the material submitted. The Committee shall also issue rules or guidelines regarding anything relevant to its function, including, but not limited to minimum

standards and procedures for the submission of Plans for approval. The Committee may require such detail in Plans submitted for its review and such other information as it deems proper including, without limitation, environmental impact statements. Until receipt by the Committee of all required Plans and other information, the Committee may postpone review of anything submitted for approval and the thirty (30) day period for approval shall not start until each submission to the Committee has been completed. The Committee may establish a fee or fees to be charged each Owner at the time the Owner submits Plans to the Committee for approval to reimburse the Committee for the administrative cost of reviewing such Plans. The amount of such fee or fees is to be set by the Committee from time to time.

**6.4 Meetings of the Plan Review Committee.** The Plan Review Committee shall meet from time to time as necessary to perform its duties hereunder. The Committee may from time to time by resolution unanimously adopted in writing designate one of its members to take any action or perform any duties for and on behalf of the Committee, except the granting of variances pursuant to Article 6.8 hereof. In the absence of such designation, the vote of a majority of all of the members of the Committee taken without a meeting shall constitute an act of the Committee.

**6.5 No Waiver of Future Approvals.** The approval or consent of the Plan Review Committee to any Plans for any work done or proposed or in connection with any other matter requiring the approval or consent of the Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans or other matter whatever subsequently or additionally submitted for approval or consent by the same or a different person.

**6.6 Inspection of Work.**

(a) *Completed Work.* Inspection of completed work and correction of defects therein shall proceed as follows:

(i) Upon the completion of any Structures for which approved Plans are required under this Declaration, the Owner shall give written notice of completion to the Plan Review Committee.

(ii) Within such reasonable time as the Committee may set in its Rules but not to exceed fifteen days thereafter, the Committee or its duly authorized representative may inspect such improvement. If the Committee finds that such work was not done in strict compliance with all approved Plans submitted or required to be submitted for its prior approval, it shall notify the Owner in writing of such non-compliance with such period, specifying in reasonable detail the particulars of non-compliance, and shall require the Owner to remedy the same.

(iii) If upon the expiration of thirty (30) days from the date of such notification, the Owner shall have failed to remedy such non-compliance, the Committee shall notify the Board in written form of such failure. Upon notice and hearing, the Board shall determine whether there is non-compliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If non-compliance exists, the Owner shall remedy or remove the same within a period of not more than forty-five (45) days from the date of announcement of the Board ruling. If the Owner does not comply with the Board's ruling within such period, the Board, at its option, may cause the Association to either remove the non-complying Structures or remedy the non-compliance, and the Owner shall reimburse the Association upon demand for all

expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Association shall levy an assessment against such Owner and the Structure in question and the land upon which the same is situated for reimbursement and the same shall constitute a lien upon such land and Structure and be enforced as provided for in Article V of this Declaration.

(iv) If for any reason after receipt or said written notice of completion from the Owner the Committee fails to notify the Owner of any non-compliance within the period provided for above in Article 6.6(a)(ii), the Structure shall be deemed to be in accordance with said approved Plans.

(b) *Work in Progress.* The Committee may inspect all work in progress to determine whether the work is being performed in accordance with the Plans approved by the Committee. If an inspection of the Structures reveals that the Structures are not being constructed in strict compliance with the approved Plans or if the inspection reveals that construction has been abandoned by the Owner for a period of more than ninety (90) days, then the Committee shall give notice of non-compliance as provided above in Article 6.6(a)(ii). If the Owner denies that such non-compliance exists the procedures set out in Article 6.6(a)(iii) shall be followed, except that no further work shall be done, pending resolution of the dispute, which would hamper correction of the non-compliance if the Board shall find that such non-compliance exists.

**6.7 No Liability of Committee.** Neither the Plan Review Committee nor any member thereof shall be liable to the Association or to any Owner or to any other Person for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties under this Declaration unless due to the willful misconduct or bad faith of the Committee or its members. The Committee shall review and approve or disapprove all Plans submitted to it for any proposed improvement on any area added to the area over which the Board has jurisdiction pursuant to Article II hereof, including the construction, alteration or addition thereof or thereto on the same basis that such Plans were approved or disapproved with respect to the area originally included within the jurisdiction of the Board. The Committee shall take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping color schemes, exterior finishes and materials and similar features, but shall not be responsible for reviewing, nor shall its approval of any Plans be deemed approval thereof from the standpoint of structural safety engineering, soundness, or conformance with building or other codes.

**6.8 Variances.** The Plan Review Committee may authorize variances on Structures within the Property from compliance with any of the architectural provisions of this Declaration or in rules adopted by the Committee, including restrictions upon height, bulk, size, shape, floor area, land area, placement of Structures, setbacks, building envelopes, colors, materials, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental consideration may, in its sole and absolute discretion, warrant, provided that the same shall always require consistency with the architectural style of the residence on the Lot. Such variances must be evidenced in writing and must be signed by at least a majority of all the members of the Committee. If such a variance is granted, no violation of the covenants, conditions or restrictions contained in this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and particular provision and in the particular instance covered by the variance.



**6.9 Fees.** The Plan Review Committee may charge such fees for the review, approval and inspection services specified in this Declaration as approved by the Board. Initially, the fees for the review, approval and inspection for a new residence shall be Three Hundred Fifty Dollars (\$350.00) payable upon the initial Plans submittal to the Committee.

## ARTICLE VII

### PROTECTIVE COVENANTS

**7.1 Purpose of Protective Covenants.** The Property is hereby made subject to the conditions covenants, restrictions, easements and reservations contained in this Declaration, all of which shall be deemed to run with the Property and each and every parcel thereof, to ensure proper use and appropriate development and improvement of the Property so as to (a) protect the Owners of Lots from such uses as will depreciate the value and use of their Lots; (b) prevent the erection on the Property of Structures constructed of improper, incompatible or unsuitable materials or with improper quality and methods of construction; (c) ensure adequate and reasonably consistent development of the Property; (d) encourage and ensure the erection of attractively designed, permanent Structures appropriately located with the Property in order to achieve harmonious appearance and function; (e) provide adequate off-street parking; and (f) generally promote the welfare and safety of the occupants, tenants and Owners of Lots.

**7.2 Land Use and Building Type.** The Residence on each of the Lots is intended for and restricted to use as a Single Family Residence having an attached garage meeting the requirements of Article 7.11, or a detached garage meeting the requirements of Article 7.12. No building or other Structure of any type shall be erected, altered, installed, place or permitted to remain on any Lot other than (i) a Single Family Residence not to exceed two (2) stories or thirty-five (35) feet in height, whichever is greater, or (ii) a detached building or garage meeting the requirements of Article 7.12.

**7.3 Further Subdividing.** No Lot shall be further divided or subdivided, nor may any easement or other interest therein less than the whole be conveyed by the Owner thereof without the prior written approval of the Board; provided, however, that when Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot, convey any easement or other interest less than the whole, all without the approval of the Board; and provided further, that nothing herein shall be deemed to require the approval of the Board for the transfer or sale of any Lot, including Structures thereon, to more than one person to be held by them as tenants in common or joint tenants, or for the granting of any mortgage of deed of trust.

**7.4 Fronting and Access Limitation.** Except for Lot 9 of Block 4, (i) each Residence shall front an interior platted street, and (ii) the ingress and egress to and from the Property shall be solely from Watercolor Drive. In case a Lot has boundaries on more than one interior street, the Residence shall front a platted street within the subdivision for which the property address has been established by the City of Tahlequah. No Residence shall front on East Fourth Street (except Lot 9 of Block 4). Lots which back-up to East Fourth Street shall not use said street for any ingress or egress to any Lot.

**7.5 Setbacks, Building Limits and Yards.** No Structure or part thereof shall be erected on any Lot nearer to a platted street than set back lines depicted on the recorded Plat. No Residence, building or part thereof shall be located nearer than ten (10) feet to a side Lot, or twenty (20) feet to a rear Lot boundary. In any event, no building or structure shall be permitted on the easements reserved for utilities or drainage.

**7.6 Drainage.** Each Lot Owner will be responsible to insure that proper interior Lot drainage will be established whereas runoff water flows to the street or established drainage reserves as the terrain naturally permits. No Lot Owner shall construct or permit to be constructed any fencing, structure or obstructions in a manner which would impair the drainage of storm and surface waters, cause water runoff, or produce water erosion damage to, or upon, an adjoining Lot.

**7.7 Dwelling Size.** The Residences in Blocks 4 and 5 shall have at least Twenty-five Hundred (2,500) square feet of finished heated living area. One-and-one-half and two-story dwellings shall have at least two thousand (2,000) square feet of finished, heated living area on the first floor. The Residences in Blocks 1, 2 and 3 shall have at least Three Thousand (3,000) square feet of finished heated living area. One-and-one-half and two-story dwellings shall have at least Twenty-five Hundred (2500) square feet of finished, heated living area on the first floor. The living area for all Residences in the Property shall not include any porches, verandas, breeze ways, porte cocheres, basements (except walk-out basements which will be considered 2-story structures for purposes of this covenant), attics or garages.

**7.8 Stone, Stucco, or Brick Construction.** Unless otherwise approved, in writing and prior to construction, by the Plan Review Committee, each of the exterior walls (excluding windows, doors and roofs) of any Residence, garage, and other building, consisting of all front, side, and rear walls shall be at least seventy percent (70%) masonry construction, consisting of stone, stucco, or brick. The use of wood, shingles or other materials to blend together with the brick, stone or stucco to eliminate repetition of design is permitted. All foundations or stem walls, whether concrete blocks or poured concrete, shall be covered in stone, stucco, or brick and shall not be left exposed. No railroad ties are permitted. All exposed chimneys visible from any street, whether wood constructed or full masonry, shall be veneered with stone, stucco or brick. The color of any such exterior veneer shall be compatible and harmonious and not be in contrast with the natural setting of the area in which they are situated. Per review prior to construction or remodel, vivid or strong colors including, but not limited to, turquoise, pink, purple, orange, bright yellow and light blue will not be used on exterior surfaces, trim or colored siding materials. Wood, aluminum or vinyl clad windows are permitted. No unfinished wood or aluminum windows will be permitted.

**7.9 Roofing Guidelines.** The roof pitch or slope for any Residence erected on any Lot shall have a minimum roof pitch of 7/12. Only roof colors found in nature such as shades of tan, brown, slate, gray or black will be allowed. No white shingles will be used on any structure. Metal roofs will not be permitted on any Residence or structure. Nothing in this Article 7.9 shall be deemed to prohibit copper or patina dormers or bay window coverings. The Plan Review Committee may approve exceptions to the roof material and pitch requirement when deemed appropriate by the Committee to recognize historical architectural styles, or significant physical characteristics of a house plan or building site. No solar or other energy collection panel, equipment or device shall be installed or maintained on any Lot or Residence if visible from any street. Rooftop protrusions including sheet metal vents, flue liner terminals, chimney caps, metal roof flashing, vent turbines, and other protrusions shall be engineered and located with no visibility from the street, if possible. All such protrusions shall be painted to blend with roof color.

**7.10 Driveways.** Each Residence will maintain a concrete driveway, which shall not exceed twenty-five (25) feet in width, from curb to front building setback line. Driveways shall be saw cut at curb per Tahlequah City Code. Lot 1, Block 4 driveway to remain as designed.

**7.11 Garage.** At a minimum, Residences shall have an attached enclosed garage providing compartment bays for a minimum of two (2) standard vehicles with a permitted maximum of three (3) standard vehicles, each occupying a single bay with direct access from driveway. All garages shall have overhead garage doors for access and closure. Each vehicle compartment bay shall have a single garage door no greater than nine (9) feet in height and shall not exceed twelve (12) feet in width. Garage doors may be constructed of wood, or steel construction with no window elements permitted. Preferred overhead garage door access for all doors is side or rear entrance, but entrance on front of Residence is permitted as Lot configurations may dictate and as approved by the Plan Review Committee. Porte cocheres made of the same character, nature, materials and construction design as the existing Residence as referenced in Article 7.8 are permitted, but do not replace or meet the covenant purpose of serving as a garage regardless of number of vehicles it might accommodate. Freestanding or attached open carports are not permitted on any Lot for any purpose. Garages or any other structure may not be converted to living area.

**7.12 Detached Buildings or Garages.** No detached building or detached garage shall be constructed on a Lot unless a Single Family Residence is constructed on such Lot either prior thereto or simultaneously therewith. Any detached building or detached garage shall be limited to a single story building customarily accessory to a Single Family Residence and shall be of the same character, nature, construction design and materials as the existing Residence. Detached garages may not exceed three (3) single vehicle bays wide or fifteen hundred (1,500) square feet, whichever is greater. Detached garages must be built in a location behind the back corners of existing Residence with all setback lines and easements being recognized. Each vehicle compartment bay shall have one single overhead garage door not to exceed twelve (12) feet in width with no window elements permitted. Single oversized garage doors are permitted as approved by the Plan and Review Committee, for accommodating travel trailers, motor homes, boats or other acceptable vehicles as defined in Article 7.22 below. No manufactured homes, pole barns, storage buildings (whether pre-fab or constructed) or metal buildings of any size, shape or material shall be moved onto, placed on or built on any Lot regardless of Structure square footage. Buildings defined herein shall only be accessed from Owner's Lot or a platted street or side street from within the Property.

**7.13 Utilities and Telecommunications.** The Declarant hereby dedicates as depicted on the accompanying Plat of Edgewater Addition the utility easements depicted by "U/E" or "Utility Easement" on said Plat, for the purposes of constructing, maintaining, operating, repairing, replacing, and/or removing any and all public utilities, including storm sewers, sanitary sewers, telephone and communication lines, electric power lines and transformers, gas lines, water lines, and cable television lines, now known or yet to be known, together with all fittings, including the poles, wires, conduits, pipes, valves, meters, and equipment for each such facilities and any other appurtenances thereto, with the rights of ingress and egress to and upon the utility easements for the uses and purposes defined herein, provided however, the Declarant hereby reserves the right to construct, maintain, operate, lay, and re-lay water lines and utility lines, together with the right of ingress and egress for such construction, maintenance, operation, laying, and re-laying over, across, and along all of the utility easements depicted on the Plat. The Declarant herein imposes a restrictive covenant, which covenant shall be binding on each Lot Owner and shall be enforceable by the City of Tahlequah, Oklahoma, and by the supplier of any affected utility service, that within the utility easements depicted on the accompanying Plat no building, structure, or other above or below ground obstruction shall be placed, erected, installed, or maintained; provided however, nothing herein shall be deemed to prohibit drives, parking areas, curbing and landscaping that do not constitute an obstruction. All electrical, natural gas,

water, cable, internet, fiber optic or telephone installations, now known or yet to be known, not owned by a governmental entity or utility company shall be placed underground from service location to Residence. Standard construction practices as to trenching depths and backfill shall be recognized. Utility meters and HVC equipment shall be located, to the extent possible, at the rear or at the side of the Residence

**7.14 Restricted Structures and Prohibition of Alteration.** No manufactured building or existing erected building structure shall be moved on to any Lot. No structure of a temporary or permanent nature, including trailers, un-installed storm shelters, mobile homes, tents, shacks, sheds, pole barns, patio cover, aluminum or steel open carports, carport cover, out buildings, improvement or structure in the aforementioned, shall be commenced, erected or maintained upon any Lot. Nor shall any alteration or improvement of those items included in this Article 7.14, be made or added to a previously constructed structure. This restriction shall not apply to temporary offices or trailers of construction companies or contractors.

**7.15 Building Materials and Completion Timeline.** Building materials may be stored thirty (30) days prior to the start of construction. Construction of a Residence must be completed within twelve (12) months after commencement. All other improvements or structures subsequently commenced after occupancy of Residence shall be completed within six (6) months after commencement.

**7.16 Maintenance Preceding and After Construction.** Prior to construction, silt barriers shall be erected. Prior, during and after time of construction, no rocks, earth, debris, downed trees, land fill, sand, construction materials or equipment will be placed, parked or stored on adjoining property or Lot which do not belong to current Lot Owner. No portion of any adjoining Lot or tract will be disturbed or the topography changed which does not belong to current Lot Owner. No trash, ashes, garbage, construction materials or other refuse will be thrown or dumped on any land or Lot within the Property. There will be no burning or other disposal or refuse out of doors, except that Declarant may burn timber clearing for easements and right of ways during development of the Property.

**7.17 Exterior Landscaping and Maintenance.** Each Lot Owner shall, within thirty (30) days after the issuance of a certificate of occupancy, install sod grass from Residence to the curb on all front and side yards facing streets.

(a) All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem. Each Residence and/or any Structure will be professionally landscaped on all sides with a street view within six (6) months of certificate of occupancy.

(b) Lot Owners shall have the responsibility and duty at their sole cost and expense, to keep within the boundaries of their Lot, any improvements well-maintained including buildings, improvements, and grounds in a safe, clean, and attractive condition at all times. Maintenance shall include, but not be limited to, the following:

(i) keeping that portion of the street which fronts the Lot, free and clear of grass cuttings, litter, trash, and debris at all times;

(ii) lawn mowing and edging along all driveways, sidewalks, and curb with no grass trimmings being blown or deposited in any street, creek, stream, storm water system or on any other Lot;

(iii) tree and shrub pruning;

(iv) watering;

(v) maintaining exterior lighting and mechanical facilities in good working order (all exterior lighting installed on any Lot shall either be indirect or of such controlled focus and intensity as not to disturb the residents, street traffic, or adjacent Lot Owners);

(vi) keeping lawn and landscape alive and attractively maintained;

(vii) keeping parking areas, driveways, and walkways in good repair;

(viii) complying with all health requirements;

(ix) repainting of improvements as needed;

(x) immediate repairing of any and all exterior damage to dwellings or improvements;

(xi) where Lots border drainage ditches and Common Area, keeping adjacent area regularly mowed and maintained to easement lines;

(xii) not installing any railroad ties; and

(xiii) grinding stumps after tree removal.

**7.18 Flagpoles, Flags, Exterior Decorations and Yard Ornaments.** Each Owner may install or erect, on Owner's Lot only, not more than one (1) flagpole that is free standing of not more than twenty (20) feet in height and located no closer to the front building setback line than the front corners of Residence. Only the current flag of the United States of America displayed in accordance with Title 4 U.S.C. §§ 5-10, the flag of the State of Oklahoma, or an official or replica flag of any branch of the United States armed forces may be displayed singularly or collectively on pole. An additional pole, no greater than five (5) feet in length, attached to the front or back of Owner's Residence which can display the flags described herein or a sports team flag/banner or decorative seasonal flag of Owner's choosing is permitted. Displayed flags shall not be more than three (3) feet by five (5) feet in size. Seasonal holiday exterior decorations and lights may be used if timely and seasonally displayed. Other types of yard ornamental landscape design items permitted include, but are not limited to, trellises, statuaries, fountains, windmills, wind vanes, fish ponds or ornamental lighting, but must be in good taste, limited in number, compatible with and appropriate in scale, color and mass to the architectural character of the Residence and the neighborhood.

**7.19 Fencing and Fence Restrictions.** No fence shall be constructed on a Lot unless a Single Family Residence is constructed on such Lot either prior thereto or simultaneously therewith. If a fence is installed, every effort must be made to preserve existing trees by adjusting fence lines to weave among, jog around or abut to trees. No part of a fence may attach to a tree. No fence shall be constructed which will impair storm water drainage. Fencing shall not be in

excess of six (6) feet in height. Acceptable fence or wall materials shall be wood, stone, brick, wrought iron or similar type metal. If wood, all of fence must be constructed with "good side" out. Wood fencing located on a shared property line may be allowed with an unfinished side facing the adjoining residential properties provided that no portion of the unfinished side is visible to the street. Unacceptable fence or wall materials include, but are not limited to, chain-link fencing, wire or wire mesh, sheet or expanded metal and stamped metal T posts, plastic or fiberglass (corrugated, flat or woven), rope, bamboo, reed or wire-bound wood pickets or unfinished cinder block. No chain link fences will be erected or placed on any Lot for any purpose. Fences located along a side lot boundary adjacent to a public street must be set back ten (10) feet from the property line or to the platted building line, whichever is greater. No fences or pens for the purpose of containing animals of any kind will be permitted. No fence may be erected any nearer to the front of a Lot than five (5) feet back from the front corner facade of Residence, except that decorative walls or planters, either of which shall not be more than three (3) feet in height, or landscape plantings which may extend beyond the front building line by ten (10) feet, are permitted. Partial wood privacy fence partitions, prefabricated privacy fence, lattice or similar type privacy fence partitions may be used on interior portions of a Lot backyard for the purpose of creating a privacy environment for Residence, pool area, or other improvements, provided such fence height does not exceed six (6) feet and is not located within twenty (20) feet of a side or back Lot line. These screening fences or walls shall be of color and materials to blend harmoniously with their surroundings.

Prior to occupancy, Owners of Lots that border the Property's exterior boundary lines in Block 1, Lots 2 thru 6 and Block 4, Lots 7 and 8 shall install a wood privacy fence six (6) feet in height, consistent on the exterior view with that fence placed by Declarant at the entrance of Block 1, Lot 1 and Block 4, Lot 1.

All fencing, walls and columns constructed by Declarant shall remain in the location constructed and be maintained in a manner of the same material type and nature by Lot Owner. Extensions, additions or modifications to construction made by Declarant are prohibited without the prior written approval of the Plan Review Committee.

**7.20 Satellite Dishes and Antennas.** Only satellite dishes or other antenna twenty-four (24) inches in diameter or smaller designed to receive television or other electronic signals are permitted, as long as the dish or antenna can be screened from street view. No dish, radio, television, short wave or antenna tower of any kind, free standing or otherwise, shall be permitted on any structure, including satellite dish receivers with diameters in excess of twenty-four (24) inches regardless of where they are located. Satellite dishes or other antenna may not be fixed to a fence.

**7.21 Swimming Pools, Hot Tubs and Spas.** Only in-ground swimming pools shall be permitted. The same must be located in rear yards of Residences after all Tahlequah City fencing ordinances (Ord. 1057-2005, 3-7-2005) have been met. Notwithstanding the foregoing, no above ground pools (with a capacity of 200 gallons or more) shall be installed, placed, erected or maintained above or below ground regardless of whether being hidden by decks, landscaping or fencing. Hot tubs and spas are permitted in backyard of Residence provided they are installed and screened from street view with appropriate Tahlequah city fencing ordinances being recognized and met.

**7.22 Vehicles: Parking, Storage and Restrictions.** Driveways (as described in Article 7.10) and parking areas on each Lot shall be designed to accommodate sufficient "off-street" parking for all vehicles of persons residing at the Residence. Vehicles of Lot Owner shall

only be parked on concrete or asphalt surfaces and shall not be parked in yards or on grass. Owners and residents shall not park overnight in any street. Parking in a street is allowed for short term guest parking of not more than three (3) consecutive days only when adequate off street parking in Residence drive or parking area is not available.

(a) Trailers, campers (including a camper shell on a pickup truck or other vehicle), recreational vehicle, travel trailer, motor home, motor coach, truck or van, boat and/or trailer, motorcycles, or any vehicle in the process of being repaired or otherwise presently inoperable shall not be permitted to remain upon any area within the Property except within a completely enclosed garage as described in Article 7.11.

(b) Parking of commercial vehicles is not permitted; provided, commercial vehicles shall not include standard size automobiles, pickup trucks or SUVs which are used both for business and personal use. This restriction will not prohibit commercial and construction vehicles, in the ordinary course of business, from making deliveries or providing service calls to an Owner's property or Residence on a temporary basis.

(c) Two (2), three (3) or four (4) wheel motorized all terrain vehicles (ATV), go-carts, dune buggies, stock cars, licensed or unlicensed off-road vehicles, trail bikes or farm type tractors (in excess of 25 HP), may be stored, but not operated in the Property. Commercial vehicles or work trucks in excess of 1 ton, semi-truck tractors and trailers and other similar vehicles are not permitted to be stored or operated in the Property except as provided herein. Street legal golf carts operated by a licensed driver are approved for use in the Property.

**7.23 Nuisances.** No noxious or offensive activity shall be allowed on any Lot in the Property, nor shall any act be committed which may be or may become an annoyance, nuisance or danger to the neighborhood or to the general public. No act or action is permitted which shall in any way increase the insurance for a Lot, cause any insurance policy to be canceled or to cause refusal to renew the same, or which will impair the structural integrity of any building. The discharge of firearms and hunting (by any conventional or unconventional means which shall include a bow and arrow, firearm or trapping) shall be prohibited within the Property. No clothes lines, drying yards, service yards, wood piles or open storage areas shall be permitted. Garage sales are prohibited. No power equipment, workshops, vehicle maintenance or repair shall be permitted on any Lot as a commercial venture. Personal routine servicing of vehicles shall be permitted when performed wholly within garage of Residence or detached building or detached garage.

**7.24 Animals and Crops.** All Owners shall be bound by the provisions Tahlequah City Code (Part 4 Animals, Chapter 1). Common accepted household pets may be kept. Pets shall have such care and restraint so as to not be obnoxious or offensive on account of noise, odor or unsanitary conditions at all times. Pets shall be (1) confined within the Owner's Residence or in a fenced back yard, or (2) kept securely on a leash, rope, chain or other restraining device when at large. Under no condition, shall a pet be allowed to roam freely throughout the Property. Each Owner is responsible for curbing his own pets and the immediate removal of his pet's excrement from any Common Area or any Lot, including such Owner's Lot. No fences or pens for the purpose of containing hunting dogs, livestock or poultry of any kind shall be raised, kept or bred for any private or commercial purpose. No crops shall be cultivated for commercial purposes.

**7.25 Trash and Garbage Disposal.** All trash and garbage shall be bagged and kept in trash containers. All equipment and containers for the storage and disposal of trash, garbage and other waste material shall be kept in a clean and sanitary condition and shall not be visible

from the street except those times designated for collection by the appropriate waste management and collection authority. No Lot shall be used, maintained nor allowed to become a dumping ground for scraps, litter, leaves, limbs or rubbish.

**7.26 Mailboxes.** Mailboxes and/or paper boxes or other receptacle of any kind for use in the delivery of mail, newspapers, magazines or similar materials erected for a Residence should be constructed of brick, stone, or stucco, and of the same material and nature as the main Residence. Decorative cast upscale mailboxes are permitted if design is consistent with the general decor of Residence as approved by Plan Review Committee.

**7.27 Signs.** This covenant shall be applicable to all Lots, Common Area, street rights-of-way, including medians and island areas within the Property. For purposes of this Article 7.27, a two-sided sign is considered one sign. No sign shall be displayed in public view on any Lot except the following;

(a) one professional sign of no more than one square foot displaying the property address;

(b) one professional sign of not more than five (5) square feet advertising the Residence or Lot "For Sale" or "For Lease" by a builder, licensed realtor, or Owner; or

(c) one sign per political candidate or ballot item for election; provided, political election signs must: (i) be ground-mounted and not attached in any way to plant material, traffic control devices, light standards, trailers, vehicles or other existing structures; (ii) be no larger than the average campaign yard sign which is about two (2) feet wide and one and one half (1 1/2) feet tall; (iii) not contain any offensive language or graphics, or display anything that may be deemed offensive; (iv) not be lighted, have sound or otherwise distracting to motorists; and (v) be removed promptly following the election.

**7.28 Basketball Goals, Sports and Playground Equipment.** Portable and/or permanently installed basketball goals shall be allowed provided such are not to be used, erected or located, even on a temporary basis, any closer to the front of the Residence than the back corners of the Residence. Swing sets, soccer and hockey goals, bicycles, wading pools, yard game equipment, sandboxes, skateboard ramps, or other portable playground equipment shall be stored from the street view nightly.

**7.29 Common Area.** The Common Areas shall be maintained by the Association as provided in Article 4.5. The Association shall also maintain the drainage area utility easement between Lots 7, 8 and 9 of Block 1 shown on the Plat. The Owners of Block 1, Lots 7, 8 and 9 shall have maintenance responsibility for the area up to the drainage and utility easement. The Owner of Block 3, Lot 4 shall have maintenance responsibility for the area up to the north side of creek. The creek and south of creek will be considered Common Area and shall remain in its current natural state maintained by the Association.

**7.30 Drilling.** No water well, oil or gas well or mining operations will be permitted within the Property.

**7.31 Residential Leases.** The Owner of a leased Residence has the incumbent obligation and duty to notify the tenant of the existence of the Association and the terms and conditions of these restrictive covenants. The Owner shall provide a copy of these restrictive covenants to tenant. Owner shall insure that the tenant complies with the covenants and



requirements herein and shall provide the Association with the name, address and telephone number of the tenant. Owner shall supply the Association with Owner's forwarding address and phone number in the event any problems regarding compliance or other requirements occur. Owner acknowledges and is aware that the ultimate responsibility for compliance with the terms, conditions and provisions of these covenants shall reside with the Lot Owner.

**7.32 Exemption of Declarant.** Notwithstanding anything in this Declaration to the contrary, neither Declarant nor any of Declarant's activities shall in any way be subject to the control of or under the jurisdiction of the Plan Review Committee or the Board. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of Structures, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales and leasing, anywhere within Property.

## ARTICLE VIII

### VIOLATION OF RESTRICTIVE COVENANTS

**8.1 Violation of These Restrictions.** There shall be no violation of any of the restrictions, covenants, easements or limitations contained herein. If any Owner or his family or any guest, licensee, lessee or invitee of such Owner or his family violates any of the same, the Board may invoke any one or more of the following remedies: (a) impose a special charge upon such Owner in an amount determined from time to time by the Board for each violation which charge shall be considered an Assessment against such Owner's property with all the rights for collection thereof as provided for in Article V; (b) cause the violation to be cured and charge the cost thereof to such Owner, which charge shall be considered an Assessment against such Owner's property with all the rights for collection thereof provide for in Article V; and (c) obtain injunctive relief against the continuance of such violation. Before invoking any such remedy, the Board shall give such Owner notice and hearing except that the Board may suspend the right of any Owner and his family, guests, licensee, lessees and invitees to use Association Property after notice has been given but before the hearing and final determination by the Board.

## ARTICLE IX

### MAINTENANCE OF LOTS AND STRUCTURES

**9.1 Maintenance by Owner.** The Owner of each Lot shall keep the Lot mowed, trimmed and free of debris, whether or not there have been any Structures built on the Lot. After construction of a Residence on a Lot, the Owner shall keep lawns seeded and mowed and shrubbery trimmed, and all buildings and other Structures thereon in good order and repair, with exterior surfaces painted in a manner and with such frequency as is consistent with good property management.

**9.2 Maintenance by Association.** In the event the Owner of a Lot shall fail to maintain the Lot and the buildings and other Structures thereon as provided herein, the Association, after notice to the Owner and with the approval of the Board, shall have the right to enter upon the Lot to perform such work as is reasonably required to restore the Lot and the buildings and other Structures thereon to a condition of good order and repair. All costs incurred by the Association in connection with the restoration shall be reimbursed to the Association by the Owner of the Lot, upon demand. All unreimbursed costs shall be a lien upon the Lot until

reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid assessment levied in accordance with Article V hereof.

## ARTICLE X

### PROPERTY OWNERS ASSOCIATION

**10.1 Creation.** To provide a coordinated arrangement for the maintenance of Common Areas and improvements thereon, and to preserve the high level of standards of the Protective Covenants herein, and to create goodwill among all Lot Owners, Declarant hereby creates the Association.

**10.2 Purposes.** The Association shall not operate for pecuniary gain or profit, shall not issue capital stock, and no part of the net earnings of the Association shall inure to the benefit of any member or individual (except that reasonable compensation may be paid for services rendered). The specific purposes for which the Association is formed are to provide for: (i) the use, improvement, maintenance, operation and repair of the Common Areas located in the Property, including any improvements and amenities located thereon; (ii) the establishment of rules and regulations for the use of the Common Areas including any improvements and amenities located thereon; (iii) the distribution among the Owners of the Property of the costs of the use, improvement, maintenance and repair of the Common Areas, including any improvements and amenities located thereon; and (iv) the promotion of the health, safety, pleasure, recreation and welfare of the residents of the Lots within the Property.

**10.3 Powers.** In furtherance of the purposes of the Association, the Association (by action of its Trustees unless otherwise noted in this Declaration) shall have the power to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in this Declaration as the same may be amended from time to time as therein provided;

(b) fix, levy, collect and enforce payment by any lawful means of all charges or assessments pursuant to the terms of the Declaration; pay all expenses in connection therewith and all office and other expenses incident to the conduct of the affairs of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association, subject, however, to the requirements of this Declaration;

(d) borrow money and, with the assent of a Majority of Lot Owners, mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility subject, however, to the requirements of this Declaration and to such conditions as may be agreed to by the members; and

(f) participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional property and open space, provided that, except as otherwise provided in this Declaration, any such merger, consolidation or annexation shall have the assent of a Majority of Lot Owners; and

(g) have and to exercise any and all powers, rights and privileges which an unincorporated association organized under the laws of the State of Oklahoma by law may now or hereafter have or exercise.

#### **10.4 Board of Trustees.**

(a) The Association shall be managed by a Board of Trustees, consisting of three (3) Trustees. The initial members of the Board of Trustees shall be:

L. Jeff Reasor  
Mitzi Reasor  
Diane Timmons

Each of the above shall remain a Trustee until such time as he or she shall resign or be removed and replaced in an election called for said purpose. If a Trustee should resign, then the remaining Trustees shall fill the vacant position, or may conduct an election to replace a current Trustee. A Trustee may be removed upon receipt of a written request for removal signed by a Majority of Lot Owners, and in such case, nominations and an election shall be held for a replacement Trustee within sixty (60) days from receipt of such written request. Nominations for a replacement Trustee may be made by any Owner of a Lot. The election shall be conducted by the Board of Trustees with a new Trustee elected by a majority of the votes of all of the Lot Owners voting in said election. Any cost of the election shall be paid from the Association funds.

(b) It shall be the duty of the Board to coordinate collection of the Association fees, provide for the administration and management of the Association, arrange for the maintenance of the Common Areas and other portions of the Property described in Article 7.29, provide for the payment of utilities and property taxes, arrange for the retention of an independent accountant or bookkeeping service for billing, collection of dues and maintenance of records, and generally take proper and appropriate action to maintain high standards of the subdivision. The Board shall have full power and authority to contract with any Person (including, without limitations, the Declarant or any Owner) for performance, on behalf of the Association, of services which the Association is otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and or such consideration as the Board may deem proper, advisable, and in the best interests of the Association.

(c) Neither the Declarant nor the Association nor the Board nor any Trustee nor any officer, agent or employee of the Association, nor any Lot Owner, shall be personally liable for the debts contracted by the Association for any torts committed by or on behalf of the Association, incidental or consequential damages for failure to inspect any premises, improvements, or for failure to repair or maintain the same.

#### **10.5 Records.**

(a) The Board shall keep or cause to be kept records with detailed accounts of the receipts and Common Expenses and any other expenses incurred by or on behalf of the

Association. The records so kept shall be available for inspection at convenient hours on working days by all Owners and mortgagees.

(b) All records shall be kept in accordance with generally accepted accounting principles and shall be reviewed at least once a year by a certified public accountant outside the Association. Owners and mortgagees shall be entitled to receive, upon request, financial statements of the Association.

**10.6 Principal Office.** The principal office of the Association is located at 718 S. East Avenue, Tahlequah, Cherokee County, Oklahoma 74464.

**10.7 Registered Service Agent.** L. Jeff Reasor, whose address is 718 S. East Avenue, Tahlequah, Cherokee County, Oklahoma 74464, is hereby appointed the registered service agent of the Association.

**10.8 Enforcement.** The Association and Declarant shall each have the right, summarily, to abate and remove any breach or violation by any Owner at the cost and expense of the Owner. Further, each Lot Owner shall be entitled to enforce the provisions of this Declaration to the extent authorized and permitted by 60 Okla. Stat. § 856.

## ARTICLE XI

### GENERAL PROVISIONS

**11.1 Validity of Restrictions.** Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provisions which shall remain in full force and effect.

**11.2 Term of Restrictions.** The covenants and restrictions of this Declaration shall run with and bind the Property, for a term of fifty (50) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless, prior to the expiration of the then current term, a written instrument shall be executed by the then Owners of seventy-five percent (75%) of the votes of the Association as determined by Article III, stating that this Declaration shall expire at the end of the then current term.

**11.3 Amendment of Restrictions by Owners.** Any provision of this Declaration other than Article 11.2 may be amended during the first five (5) year period following the Effective Date by a written instrument executed by the Owners of over fifty percent (50%) of the votes of the Association as determined by Article III, and thereafter by an instrument executed by the Owners of not less than seventy-five percent (75%) of the votes of the Association as determined by Article III. Any amendment must be recorded in the office of the County Clerk of Cherokee County, Oklahoma.

**11.4 Notice.** Each Owner shall register in writing his mailing address with the Association, and notice or demands intended to be served upon an Owner shall be sent by certified mail, postage prepaid, addressed in the name of the Owner at such registered mailing address. All notices, demands or other notices intended to be served upon the Board of Trustees of the Association or to the Association shall be sent certified mail, with postage prepaid, to DJ Jamal, LLC, or at such other address of which the Board may be furnished from time to time or

served in person upon the service agent of the Association, L. Jeff Reasor, 718 S. East Avenue, Tahlequah, Cherokee County, Oklahoma 74464.

*(remainder of this page intentionally left blank; signature page follows)*

Executed as of the Effective Date.

DECLARANT:

DJ Jamal, LLC



By: L. Jeff Reasor, Manager

STATE OF OKLAHOMA     )  
  ) ss  
COUNTY OF CHEROKEE    )

This instrument was acknowledged before me on Apr. 15<sup>th</sup>, 2015 by L. Jeff Reasor, as Manager of DJ Jamal, LLC, an Oklahoma limited liability company.



Commission expires 10/28/2018  
Commission No. 02017124

  
Notary Public

**EXHIBIT "A"**

**"PROPERTY"**

**EDGEWATER ADDITION**

An Addition to the City of Tahlequah, Oklahoma

A PART OF THE EAST ONE HALF OF THE LOT 3 OF SECTION 3, TOWNSHIP 16 NORTH, RANGE 22 EAST, AND A PART OF LOT 2 OF SECTION 3, ALL IN SECTION 3, TOWNSHIP 16 NORTH, RANGE 22 EAST OF THE INDIAN BASE MERIDIAN. CHEROKEE COUNTY OKLAHOMA, MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE ¾ INCH REBAR AT THE NW CORNER OF SAID LOT 2 SECTION 3, THENCE ALONG THE NORTH LINE THEREOF N88°00'46"E 194.01 FEET TO THE POINT OF BEGINNING ,THENCE N88°00'46"E 982.40 FEET; THENCE S03°38'35"E 263.42 FEET; THENCE N89°45'45"E 130.16 FEET TO THE EAST LINE OF SAID LOT 2; THENCE S01°38'58"E 1428.27 FEET TO THE SE CORNER OF SAID LOT 2, THENCE S88°03'37"W 1315.90 FEET TO THE SW CORNER OF SAID LOT 2, THENCE N01°38'33"W 111.65 FT. THENCE N53°09'52"W 54.23 FT. THENCE S88°03'37"W 94.06 FT. THENCE N54°15'58"W 258.24 FT. TO A POINT ON A CURVE, THENCE ON A CURVE TO THE RIGHT HAVING A RADIUS OF 55 FEET AND A CHORD WHICH BEARS N83°40'00"W 63.70 FEET AN ARC DISTANCE OF 67.94 FEET, THENCE S57°58'31"W 294.73 FT TO A POINT ON THE WEST LINE OF THE E ½ OF LOT 3, SECTION 3, THENCE ALONG SAID LINE N01°37'56"W 935.77 FEET, THENCE N66°45'08"E 336.10 FT. THENCE N59°28'47"E 154.81 FT. THENCE N56°46'33"E 164.62 FT. THENCE N55°22'54"E 177.28 FT. THENCE N44°08'06"E 161.64 FT THENCE N01°36'31"W 104.48 FEET TO THE POINT OF BEGINNING, CONTAINING A TOTAL PLATTED AREA OF 65.04 ACRES.

**EXHIBIT "A-1"**

**"ADDITIONAL LAND"**

I-2015-002365 Book 1117 Pg: 49  
04/15/2015 10:11 am Pg 0018-0049  
Fee: \$ 75.00 Doc: \$ 0.00  
Cheryl Trammel - Cherokee County Clerk  
State of Oklahoma

THE NE1/4 SE1/4 NW1/4 OF SECTION 3, TOWNSHIP 16 NORTH, RANGE 22 EAST, CHEROKEE COUNTY, OKLAHOMA, AND A PART OF THE E1/2 OF LOT 3 OF SAID SECTION 3 DESCRIBED BY METES AND BOUNDS AS FOLLOWS: BEGINNING AT A NO. 4 REBAR WITH CAP MARKED HUB 1352 BEING THE SOUTHEAST CORNER OF SAID E1/2 OF LOT 3, THENCE S88°15'36" W ALONG THE SOUTH LINE THEREOF 659.10 FEET TO THE SOUTHWEST CORNER OF SAID E1/2 OF LOT 3; THENCE N01°37'57"W ALONG THE WEST LINE THEREOF 162.57 FEET TO THE SOUTHWEST CORNER OF EDGEWATER ADDITION; THENCE N57°58'31"E ALONG THE SOUTHERLY LINE OF EDGEWATER ADDITION 294.73 FEET TO A POINT ON A CURVE; THENCE ALONG SAID SOUTHERLY LINE ON A CURVE TO THE LEFT HAVING A RADIUS OF 55.00 FEET, A CHORD WHICH BEARS S83°40'01"E, A CHORD LENGTH OF 63.70 FEET, AN ARC DISTANCE OF 67.94 FEET; THENCE S54°15'58"E ALONG SAID SOUTHERLY LINE 258.24 FEET; THENCE N88°03'37"E ALONG SAID SOUTHERLY LINE 94.06 FEET; THENCE S53°09'52"E ALONG SAID SOUTHERLY LINE 54.23 FEET TO THE EAST LINE OF SAID E1/2 OF LOT 3; THENCE S01°38'33"E ALONG SAID EAST LINE 111.65 FEET TO THE POINT OF BEGINNING CONTAINING 13.27 ACRES.

3348999v5