



**THE RESERVE AT BATTLE CREEK
DEED OF DEDICATION
AND
RESTRICTIVE COVENANTS
P.U.D No. 128**

KNOWN ALL MEN BY THESE PRESENTS:

RESERVE AT BATTLE CREEK, L.L.C., an Oklahoma limited liability company, hereinafter referred to as the "Owner/Developer", is the owner of the following described land in the City of Broken Arrow, Tulsa County, State of Oklahoma, to wit:

A tract of land located in the E/2 of the NE/4 of Section 34, T-19-N, R-14-E of the Indian Meridian, Tulsa County, State of Oklahoma, according to the Official U.S. Government Survey thereof, being more particularly described as follows:

Beginning at the Northwest Corner of the E/2 of the NE/4 of Section 34, T-19-N, R-14-E of the Indian Meridian, Tulsa County, State of Oklahoma, according to the Official U.S. Government survey thereof;

Thence S 00° 04'27"E a distance of 50.00 feet;

Thence N 89°55'33"E a distance of 10.00 feet;

Thence S 45° 04'27 E a distance of 42.43 feet;

Thence S 00°04'27"E a distance of 250.00 feet;

Thence S 05°47'05"E a distance of 50.25 feet;

Thence N 89°55'33" E a distance of 70.00 feet;

Thence S 05°38'11"W a distance of 50.25 feet;

Thence S 00°04'27"E a distance of 117.27 feet to a point of tangent curve to the right;

Thence along said tangent curve to the right with a central angle of 30°04'27", a radius of 200.00 feet and an arc length of 104.98 feet;

Thence S 30°00'00"W a distance of 190.64 feet to a point of tangent curve to the left;

Thence along said tangent curve to the left with a central angle of 30°00'00", a radius of 140.00 feet and an arc length of 73.30 feet;

Thence S 00°00'00"W a distance of 32.66 feet to a point of tangent curve to the left;

Thence along said tangent curve to the left with a central angle of 37°41'18", a radius of 210.00 feet and an arc length of 24.86 feet;

Thence along said tangent curve to the right with a central angle of $03^{\circ}30'59''$, a radius of 405.00 feet and an arc length of 24.86 feet;

Thence $N 90^{\circ}00'00''E$ a distance of 1008.53 feet to the East Line of the E/2 of the NE/4 of said Section 34;

Thence $S 00^{\circ}05'42''E$ along the East Line of the E/2 of the NE/4 of said Section 34 a distance of 1578.53 feet to the East Quarter Corner of said Section 34;

Thence $S 89^{\circ}59'35''W$ along the South Line of the E/2 of the NE/4 of said Section 34 a distance of 1319.54 feet to the Southwest Corner of the E/2 of the NE/4 of said Section 34, said point being also the Southeast Corner of "Gettysburg", an addition to the City of Broken Arrow, Tulsa County, State of Oklahoma, according to the official recorded plat thereof, Plat No. 5225, as filed in the records of the Tulsa County Clerk's office;

Thence $N 00^{\circ}04'16''W$ along the West Line of the E/2 of the NE/4 of said Section 34, being also the East Line of said "Gettysburg" a distance of 2641.98 feet to the Northwest Corner of the E/2 of the NE/4 of said Section 34, said point being also the "Point of Beginning".

Said tract contains 2,426,727 square feet or 55.7100 acres.

The non-astronomic bearings for said tract are based on an assumed bearing of $N89^{\circ}55'33''E$ along the North Line of the NE/4 of Section 34, T-19-N, R-14-E of the Indian Meridian, Tulsa county, State of Oklahoma, according to the Official U.S. Government survey thereof.

and has caused the above described land to be surveyed, staked, platted and subdivided into lots, blocks, reserve area, and streets, in conformity with the accompanying plat and survey (herein after the "Plat"), and has designated the subdivision as "The Reserve at Battle Creek", a subdivision in the City of Broken Arrow, Tulsa County, Oklahoma (hereinafter "The Reserve at Battle Creek" or the "Subdivision").

SECTION I. STREETS, EASEMENTS AND UTILITIES

A. Public Streets and General Utility Easements

The Owner/Developer does hereby dedicate for public use the streets depicted as public on the Plat and does further dedicate for public use the utility easements as depicted on the Plat as "u/e" or "utility easement", for the several 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, together with all fittings, including the poles, wires, conduits, pipes, valves, meters and equipment for each of 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 aforesaid, provided however, the Owner/Developer herein imposes a restrictive covenant, which covenant shall be binding on each lot owner and shall be enforceable by the City of Broken Arrow, Oklahoma, and by the supplier of any affected utility service, that within the utility easements depicted on the Plat no building, structure or other above or below ground obstruction that interferes with the above set forth uses and purposes of the easement shall be placed, erected, installed or maintained, provided however, nothing herein shall be deemed to prohibit drives, parking areas, curbing, landscaping and customary screening fences and walls.

B. Traffic Control Medians A, B and C

The Owner/Developer does hereby dedicate for public use Traffic Control Medians A, B and C, for the purposes of construction and maintenance of traffic control medians, provided however, the Owner/Developer herein reserves a perpetual easement, to be subsequently conveyed to the master homeowners' association formed or to be formed as set forth within Section IV. Hereof, for the purposes of installation and maintenance of landscaping, utilities and signage within Traffic Control Medians A, B and C. The holder of the reserved easement, the Owner/Developer or the homeowners' association, as the case may be, herein covenants that the holder shall maintain any landscaping located within Traffic control Medians A, B and C and the City of Broken Arrow shall have no liability for any damage to landscaping, including irrigation systems, occasioned by maintenance or reconstruction of the traffic control medians or maintenance or reconstruction of the adjoining public streets.

C. Underground Service

C.1 Street light poles or standards may be served by underground cable and elsewhere throughout the Subdivision all supply lines including electric, telephone, cable television and gas lines shall be located underground in the easement ways dedicated for general utility services and in the rights-of-way of the public streets and the private streets, as depicted on the Plat. Service pedestals and transformers, as sources of supply at secondary voltages, may also be located in easement ways.

C.2 Underground service cables to all structures which may be located within the Subdivision may be run from the nearest service pedestal or transformer to the point of usage determined by the location and construction of such structure as may be located upon the lot, provided that upon the installation of a service cable to a particular structure, the supplier of service shall thereafter be deemed to have a definitive, permanent, effective and exclusive right-of-way easement on the lot, covering a 5 foot strip extending 2.5 feet on each side of the service cable, extending from the service pedestal or transformer to the service entrance on the structure

C.3 The supplier of electric, telephone, cable television and gas services, through its agents and employees, shall at all times have right of access to all easement ways shown on the Plat or otherwise provided for in this Deed of Dedication for the purpose of installing, maintaining, removing or replacing any portion of the underground electric, telephone, cable television or gas facilities installed by the supplier of the utility service. C.4 The owner of the lot shall be responsible for the protection of the underground service facilities located on his lot and shall prevent the alteration of grade or any construction activity which would interfere with the electric, telephone, cable television or gas facilities. The supplier of service shall be responsible for ordinary maintenance of underground facilities, but the owner shall pay for damage or relocation of such facilities caused or necessitated by acts of the owner or his agents or contractors.

C.5 The foregoing covenants set forth in this sub-section C shall be enforceable by the supplier of the electric, telephone, cable television or gas service and the owner of the lot agrees to be bound hereby.

D. Water and Sewer Service

D.1 The owner of the lot shall be responsible for the protection of the public water and sewer mains located on his lot.

D.2 Within the utility easement areas depicted on the Plat, the alteration of ground elevations in excess of 3 feet from the contours existing upon the completion of the installation of a public water main or sewer main, or any construction activity which would interfere with public water and sewer mains, shall be prohibited. Within the depicted utility easement area, if the ground elevations are altered from the contours existing upon the completion of the installation of a public water or sewer main, all ground level apertures including valve boxes, fire hydrants and manholes, shall be adjusted to the new grade by the Owner or at the Owner's expense.

D.3 The City of Broken Arrow, Oklahoma, or its successors, shall be responsible for maintenance of public water and sewer mains, but the owner shall pay for damage or relocation of such facilities caused or necessitated by acts of the owner, his agents or contractors.

D.4 The City of Broken Arrow, Oklahoma, or its successors, shall at all times have Right of access to all easement ways depicted on the Plat, or otherwise provided for in this Deed of Dedication, for the purpose of installing, maintaining, removing or replacing any portion of underground water or sewer facilities.

D.5 The foregoing covenants set forth in this sub-section D shall be enforceable by the City of Broken Arrow, Oklahoma, or its successors, and the owner of the lot agrees to be bound hereby.

E. Surface Drainage

Each lot shall receive and drain, in an unobstructed manner, the storm and surface waters from lots and drainage areas of higher elevation and from public streets and easements. No lot owner shall construct or permit to be constructed any fencing or other obstructions which would impair the drainage of storm and surface waters over and across his lot. The foregoing covenants set forth in this Paragraph E shall be enforceable by any affected lot owner and by the City of Broken Arrow, Oklahoma.

F. Limits of No Access

The undersigned Owner/Developer hereby relinquishes rights of vehicular ingress or egress from any portion of the property adjacent to West Omaha Street and North Elm Place within the bounds designated as "Limits of No Access" on the accompanying plat, which Limits of No Access may be amended or released by the Broken Arrow Planning Commission, or its successor, or as otherwise provided by the statutes and laws of the State of Oklahoma pertaining thereto.

G. Paving and Landscaping within Easements

The owner of the lot affected shall be responsible for the repair of damage to landscaping and paving occasioned by necessary maintenance of underground water, sewer, storm sewer, gas, communication cable television or electric facilities within the utility easement areas depicted upon the Plat, provided however, the

City of Broken Arrow, Oklahoma or the supplier of the utility service shall use reasonable care in the performance of such activities

SECTION II. PLANNED UNIT DEVELOPMENT RESTRICTIONS

WHEREAS, The Reserve at Battle Creek was submitted as a part of a Planned Unit Development (designated as PUD 128) as provided within Section 3 of Article VII of the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 1560) as amended and existing on November 15, 1999, (hereinafter the “Broken Arrow Zoning Ordinance”) which PUD 128 was affirmatively recommended by the Broken Arrow Planning Commission on February 22, 2001 and approved by the Council of the City of Broken Arrow, Oklahoma, on March 19, 2001; and

WHEREAS, the Planned Unit Development provisions of the Broken Arrow Zoning Ordinance require the establishment of covenants of record, inuring to and enforceable by the City of Broken Arrow, Oklahoma, sufficient to assure the implementation and continued compliance with the approved Planned Unit Development; and

WHEREAS, the Owner/Developer desires to establish restrictions for the purpose of providing for an orderly development and to insure adequate restrictions for the mutual benefit of the Owner/Developer, its successors and assigns, and the City of Broken Arrow, Oklahoma.

THEREFORE, the Owner/developer does hereby impose the following restrictions and covenants which shall be covenants running with the land and shall be binding upon the Owner/Developer, its successors and assigns, and shall be enforceable as hereinafter set forth.

A. Use of Land

The development of The Reserve at Battle Creek (a part of Development Areas A, B and C of PUD No. 128) shall be subject to the Planned Unit Development provisions of the Broken Arrow Zoning Ordinance. as the provisions existed on November 15, 1999, or as subsequently amended.

A.1. BLOCKS 1 AND 2 (Development Area “A”)

Blocks 1and 2 of The Reserve at Battle Creek shall be subject to the following restrictions and limitations:

A.1.1 Use

Lots within blocks 1 and 2 shall be known and described as residential lots and shall be limited to use for detached single-family residences and purposes.

A.1.2 Fronting and Access Limitation

Within blocks 1 and 2, each dwelling shall front an interior private street and derive its access solely from an interior private street.

A.1.3 Yards and Setbacks

A.1.3.1 Street Setback. With blocks 1 and 2, no building shall be erected nearer to a public street than the building setback lines depicted on the Plat and a garage

opening shall be setback not less than 20 feet from the street from which access is derived.

A.1.3.2 Rear Yard. Within Blocks 1 and 2, the rear yard of a lot shall be not less than 15 feet in depth.

A.1.3.3 Side Yard.

A.1.3.3.1 Minimum Side Yard (Abutting Reserve Areas) Within Blocks 1 and 2, one side yard shall be not less than 5 feet in width and the other side yard shall be not less than 5 feet in width or one side yard shall be zero (0) and the other side yard shall be not less than 10 feet in width.

A.1.3.3.2 Minimum Side Yard (Abutting Gettysburg Subdivision)

Within Blocks 1 and 2, one side yard shall be not less than 10 feet in width and the other side yard shall be not less than 5 feet in width, or one side yard shall be not less than 15 feet in width.

A.1.3.3.3 Minimum corner Lot side Yard (Abutting a Private Street)

Within Blocks 1 and 2, a corner lot side yard (without a garage) abutting a private street shall be not less than 15 feet in width; a corner lot side yard (with a garage) abutting a private street shall be not less than 20 feet in width.

A.1.3.4 Front Yard Abutting a Private Street Within Blocks 1 and 2, the lot front yard shall be not less than 20 feet.

A.1.3.5 Easement Setbacks Within Blocks 1 and 2, no building, whether principal or accessory, shall encroach upon any utility easement.

A.1.4 Building Height

Within Blocks 1 and 2, no building shall exceed 2.5 stories or 35 feet in height.

A.1.5 Minimum Lot Frontage

Within blocks 1 and 2, each Lot shall maintain a minimum of 55 feet frontage as measured at the building line and each Lot shall have a minimum of at least 30 feet of street frontage.

A.1.6 Minimum Lot Size

Within Blocks 1 and 2, each lot shall contain not less than 6000 square feet of land area.

A.1.7 Maximum Lot Coverage

Within Blocks 1 and 2, the residence shall cover no more than 60% of the lot area.

A.1.8 Reserves A, B, C and M

A.1.8.1 Reserves A and B Reserves A and B, within Blocks 1 and 2, shall be limited to use for utilities, open space, landscaping, fencing, signage and pedestrian ways and are

reserved for subsequent conveyance to a homeowners' association comprised of the owners of Blocks 1 and 2, formed as set forth within Section IV. hereof. The maintenance of Reserves A and B shall be the responsibility of the homeowners' association.

A.1.8.2 Reserve C Reserve C, within Blocks 1 and 2, shall be limited to use for utilities, open space, landscaping, recreation, fencing, signage and pedestrian ways and are reserved for subsequent conveyance to a homeowners' association comprised of the owners of Blocks 1 and 2, formed or to be formed as set forth within Section IV. hereof. The maintenance of Reserve C shall be the responsibility of the homeowners' association. No vehicular access is allowed through Reserve C other than for maintenance.

A.1.8.3 Reserve M – Private Streets Reserve M, within Blocks 1 and 2, shall be limited to use for utilities, private streets, entry facilities, designated guest parking areas, and landscaping and is reserved for subsequent conveyance to a homeowners' association comprised of the owners of Blocks 1 and 2, formed or to be formed as set forth within section IV. hereof. The interior streets depicted on the Plat as private streets, and identified as Reserve M are herein dedicated by the Owner/Developer as private streets for the common use and benefit of the owners of the above described lots, their guests and invitees, for the purposes of providing vehicular and pedestrian access to and from the various lots. The maintenance of Reserve m shall be the responsibility of the homeowners' association.

A.1.9 Other Bulk and Other Requirements

Except as above modified, Blocks 1 and 2 shall meet the requirements of an R-3 District.

A.2 BLOCKS 3,4,5,6 AND 7 (Development Area “B”)

Blocks 3, 4, 5, 6 and 7 of The Reserve at Battle Creek shall be subject to the following restrictions and limitations:

A.2.1 Use

Lots within Blocks 3, 4, 5, 6, and 7 shall be known and described as residential lots and shall be limited to use for detached single-family residences and purposes.

A.2.2 Fronting and Access Limitation

Within Blocks 3, 4, 5, 6, and 7 each dwelling shall front an interior public street and derive its access solely from an interior public street.

A.2.3 Yards and Setbacks

A.2.3.1 Street Setback

With Blocks 3, 4, 5, 6, and 7, no building shall be erected nearer to a public street than the building setback lines depicted on the Plat and a garage opening shall be setback not less that 25 feet from the street from which access is derived.

A.2.3.2 Rear Yard

Within Blocks 3, 4, 5, 6, and 7, the rear yard of a lot shall be not less than 20 feet in depth.

A.2.3.3 Side Yard

A.2.3.3.1 Corner Lot Minimum Side Yard (Abutting a Public Street) Within Blocks 3, 4, 5, 6, and 7, a corner lot side yard (without a garage) abutting a public street shall be not less than 15 feet in width.

A.2.3.4 Easement Setbacks Within Blocks 3, 4, 5, 6, and 7, no building, whether principal or accessory, shall encroach upon any utility easement.

A.2.4 Building Height

Within Blocks 3, 4, 5, 6, and 7, no building shall exceed 2.5 stories or 35 feet in height.

A.2.5 Minimum Lot Frontage

Within Blocks 3, 4, 5, 6, and 7, each lot shall contain not less than 6600 square feet of land area.

A.2.6 Minimum Lot Size

Within Blocks 3, 4, 5, 6, and 7, each lot shall contain not less than 6600 square feet of land area.

A.2.7 Reserves D, E, F, G, I, J, and K

A.2.7.1 Reserves D, E, F, G, I, J, and K, Reserves D, E, F, G, I, J and K within blocks, 4, 5, 6, and 7, shall be limited to use for utilities, designated guest parking areas, stormwater detention, open space, landscaping, recreation, fencing, signage, and pedestrian ways and are reserved for subsequent conveyance to a homeowners' association comprised of the owners of Blocks 3, 4, 5, 6, and 7, formed or to be formed as set forth within Section IV. hereof. The maintenance of Reserve D, E, F, G, I, J, K shall be the responsibility of the homeowners' association. No vehicular access is allowed through Reserve D, E, F, G, I, J and K other than for maintenance.

A.2.8 Other bulk and Other Requirements

Except as above modified, Blocks 3, 4, 5, 6 and 7 shall meet the requirements of an R-3 District.

A.3 BLOCKS 8, 9, AND 10 (Development Area "C")

Blocks 8, 9, and 10 of The Reserve at Battle Creek shall be subject to the following restrictions and limitations:

A.3.1 Use

Lot within Blocks 8, 9, and 10 shall be known and described as residential lots and shall be limited to use for detached single-family residences and purposes.

A.3.2 Fronting and Access Limitation

Within Blocks 8, 9, and 10 each dwelling shall front an interior private street and derive its access solely from an interior private street.

A.3.3 Yards and Setbacks

A.3.3.1 Street Setback Within Blocks 8, 9, and 10, no building shall be erected Nearer to a public or private street than the building setback lines depicted on the Plat, and a garage opening shall be setback not less than 20 feet from the street from which access is derived.

A.3.3.2 Rear Yard

A.3.3.2.1 Minimum Rear Yard (Abutting North Elm Place Arterial) Within blocks 8, 9, and 10, the minimum rear yard of a lot abutting North Elm Place arterial shall be not less than 20 feet in depth.

A.3.3.2.2 Minimum Rear Yard (All lots not abutting North Elm Place Arterial) Within Blocks 8, 9, and 10, the rear yard of a lot not abutting North Elm Place Arterial shall be less than 15 feet in depth.

A.3.3.3 Side Yard

A.3.3.3.1 Minimum side Yard (Abutting reserve Areas or North Elm Place Arterial) Within Blocks 8, 9, and 10, the minimum side yard requirement for a lot that abuts a Reserve Area or North Elm Place Arterial is: one side yard shall be not less than 5 feet in width and the other side yard shall be not less than 5 feet in width, or one side yard shall be zero (0) and the other side yard shall be not less than 10 feet in width.

A.3.3.3.2 Minimum Side Yard (All lots not abutting reserve Areas or North Elm Place Arterial) Within Blocks 8, 9, and 10, the minimum side yard Requirements for a lot that does not abut a Reserve Area or North Elm Place Arterial is: one side yard shall be not less than 10 feet in width And the other side yard shall be not less than 5 feet in width, or one Side yard shall be zero (0) and the other side yard shall be not less than 15 feet in width.

A.3.3.3.3 Minimum Corner Lot Side Yard (Abutting a Private Street) Within Blocks 8, 9, 10, a corner lot side yard (without a garage) abutting a private street shall be not less than 15 feet in width.

A.3.3.4 Front Yard

A.3.3.4.1 Minimum Front Yard (Abutting a Private Street) Within Blocks 8, 9, and 10, a front yard abutting a private street shall be no less than 20 feet in depth.

A.3.3.4.2 Minimum Front Yard (Adjacent to any Public Street) Within Blocks 8, 9, and 10, a front yard adjacent to any public street shall be no less than 25 feet in depth.

A.3.3.5 Easement Setbacks Within blocks 8, 9, and 10, no building, whether principal or accessory, shall encroach upon any utility easement.

A.3.4 Building Height

Within Blocks 8, 9, 10, no building shall exceed 2.5 stories or 35 feet in height.

A.3.5 Minimum Lot Frontage

Within blocks 8, 9, 10, the minimum lot frontage shall be 55 feet as measured as the lot width at the building line, provided however, the lot shall have not less than 30 feet of street frontage as measured at the front lot line.

A.3.6 Minimum Lot Size

Within Blocks 8, 9, and 10, each lot shall contain not less than 6000 square feet of land area.

A.3.7 Maximum Lot Coverage

Within Blocks 8, 9, and 10, the residence shall cover no more than 60% of the lot area.

A.3.8 Reserve H and L

A.3.8.1 Reserve H Reserve H, within blocks 8, 9, and 10, shall be limited to use for utilities, open space, landscaping, recreation, fencing, signage, and pedestrian ways and are reserved for subsequent conveyance to a homeowners' association comprised of the owners of Blocks 8, 9, and 10, formed or to be formed as set forth within Section IV. hereof. The maintenance of Reserve H shall be the responsibility of the homeowners' association. No vehicular access is allowed through Reserve H other than for maintenance.

A.3.8.2 Reserve L Reserve L, within Blocks 8, 9, and 10, shall be limited to use for utilities, private streets, entry facilities, designated guest parking areas, and landscaping and is reserved for subsequent conveyance to a homeowners' association comprised of the owners of Blocks 8, 9, and 10, formed or to be formed as set forth within Section IV., hereof. The interior streets depicted on the Plat as private streets, and identified as Reserve L are herein dedicated by the Owner/Developer as private streets for the common use and benefit of the owners of the above described lots, their guests and invitees, for the purpose of providing vehicular and pedestrian access to and from the various lots. The maintenance of Reserve L shall be the responsibility of the homeowners' association.

A.3.9 Other Bulk and Other Requirements

Except as above modified, blocks 8, 9, and 10 shall meet the requirements of an R-3 District.

B. Utility and Governmental Services Access Easement

The Owner/Developer herein grants to the City of Broken Arrow, Oklahoma, the United States Postal Service, any public utility providing utility service to the subdivision, and any refuse collection service which provides service within the Subdivision, the right to enter and traverse the private streets and to operate thereon all service, emergency and government vehicles including, but not limited to, police and fire vehicles and equipment.

C. Private Street Improvement Standards

C.1 The Owner/Developer shall construct street surfacing extending the full length of The private streets depicted on the Plat, and meeting or exceeding the now existing specifications of the City of Broken Arrow applicable to minor residential public streets including but not limited to the following:

C.1.1 Quality and thickness specification for curbs, gutters, base and paving materials and,

C.1.2 Surfacing width of not less than 26 feet measured from face of curb to face of curb.

C.2 The Owner/Developer shall secure construction inspection of the private streets by the City of Broken Arrow, Oklahoma in accordance with standards of inspection of minor residential public streets.

C.3 The erection of any arch or similar structure over any private street as depicted on the Plat which would prohibit any governmental vehicle, specifically any fire vehicle, from effective usage of the private streets shall be prohibited, provided however, customary security gating may be installed.

D. Non-obligation to Accept Dedication

The Owner/Developer acknowledges for itself and its successors in title that the private streets as depicted on the Plat do not meet the City of Broken Arrow, Oklahoma standard as to width of right-of-way, and further acknowledges that the City of Broken Arrow, Oklahoma shall have no duty to maintain any of the private streets within the subdivision, nor have any implied obligation to accept any subsequent tender of dedication of any private street within the Subdivision.

E. Site Plan

The accompanying Plat shall constitute the required site plan of the phase or phases of the Planned Unit Development included within the accompanying Plat, provided however, prior to the issuance of a building permit for any gated entry, a detailed site plan of the proposed improvements shall be submitted to the Broken Arrow Planning Department for staff determination of sufficiency of vehicular stacking space and passage to and from public streets.

F. Landscaping

Landscaping shall be established and maintained as set forth within Article VIII, Section 19 of the Broken Arrow Zoning Code and shall comply with the following additional Restriction that the Master Association, hereinafter referred to in Section IV -Homeowners'' Association, shall be responsible for the maintenance of a minimum of 120 trees to be located within the reserve areas located adjacent to the

Collector Street (North Ironwood Avenue/West Indianapolis Street/North Gum Avenue). Any tree which falls shall be on the landscape plan approved by the Planning Commission.

G. Fencing

An architecturally attractive opaque fence of at least 6 feet in height with masonry columns spaced a minimum of 40 feet apart shall be provided along West Omaha Street. Fencing along West Omaha Street and along the Collector Street (North Ironwood Avenue/West Indianapolis Street/North Gum Avenue) shall be installed as shown upon the approved Landscaping Plan approved by the City of Broken Arrow Planning Commission and as described further in Section III – Private Building and Use Restrictions. No fencing shall be required to be installed by the Owner/Developer along Elm Place. An opaque fence of at least 6 feet in height shall be installed by the Owner/Developer along the west boundary of Reserves “D” and “J” unless such a fence already exists. If a swimming pool is constructed in Reserve “D” fencing shall be provided in accordance with City of Broken Arrow Building Code requirements.

H. Definitions

In the event of ambiguity of any word or term set forth in Section II., the meaning thereof shall be deemed to be defined as set forth within the City of Broken Arrow Zoning Ordinance as existing on March 19, 2001, or as subsequently amended.

SECTION III. PRIVATE BUILDING AND USE RESTRICTIONS

WHEREAS, the Owner/Developer desires to establish restrictions for the purpose of providing for the orderly development of the Subdivision and conformity and compatibility of improvements therein.

THEREFORE, the Owner/Developer does hereby impose the following restrictions and covenants which shall be covenants running with the land, and shall be binding upon the Owner/Developer, its successors and assigns, and shall be enforceable as hereinafter set forth.

A. Architectural Committee – Plan Review

A.1 No building, fence, wall or free standing mailbox shall be erected, placed or altered on any lot in the Subdivision until the plans and specifications have been approved in writing by residential Development, Inc., or its authorized representatives or successors, which are hereinafter referred to as the “Architectural Committee”. For each building, the required plans and specifications shall be submitted in duplicate and include a site plan, floor plan, exterior elevations, drainage and grading plans, exterior materials and color scheme. In the event the Architectural Committee fails to approve or disapprove plans and specifications submitted to it as herein required within 10 days after submission, or in the event no suit to enjoin the erection of the building or structure or the making of an alteration has been commenced prior to the 60th day following completion thereof, approval of the Architectural Committee shall not be required and this covenant shall be deemed to have been fully complied with.

A.2 The Architectural Committee’s purpose is to promote good design and compatibility within the subdivision and in its review of plans or determination of any waiver as hereinafter authorized may take into consideration the nature and character of the proposed building or structure, the materials of which it is to be built, the availability of alternative materials, the site upon which it is proposed to be erected the harmony thereof with the surrounding area. The Architectural Committee shall not be liable for any approval, disapproval or failure to approve hereunder and its approval of building plans shall not constitute warranty

or responsibility for building methods, materials, procedures, structural design, grading or drainage or code violations. The approval or failure to approve building plans shall not be deemed a waiver of any restriction. Nothing herein contained shall be deemed to prevent any lot owner in the subdivision from prosecuting any legal action relating to improvements within the subdivision which they would otherwise be entitled to prosecute.

A.3 The powers and duties of the Architectural committee shall, on the 1st day of January, 2007, be deemed transferred to the master homeowners' association formed or to be formed as set forth within Section IV. hereof, or upon written assignment to the homeowners' association by the Architectural Committee, whichever event first occurs, and thereafter the foregoing powers and duties shall be exercised by the board of directors of the master homeowners' association.

B. Floor Area

Single story dwellings shall have a minimum of 1,500 square feet of living area. Multi-story dwellings shall have a minimum of 2,000 square feet of living area, provided however, the first floor shall have a minimum of 1,200 square feet of living area. The computation of square feet of living area shall exclude garages, open spaces and breeze ways.

C. Garages

An attached garage providing space for a minimum of two automobiles shall be provided on each lot. Garages shall be enclosed and carports are prohibited. Glass in garage doors is prohibited.

D. Foundations

Any exposed foundation shall be of brick, stone or stucco. No stem wall shall be exposed.

E. Masonry

100% of the exterior surface of first story exterior walls (excluding windows and doors) shall be of brick, stone or stucco, provided however, the Architectural committee may, in the particular instance and upon written request, approve a waiver of this restriction.

F. Windows

Aluminum windows having a mill finish are prohibited.

G. Roof Pitch

No dwelling shall have a roof pitch of less than 6/12 over 75% of the horizontal area covered by roof and no roof shall have a pitch of less than 3/12, provided however, the Architectural Committee may, in the particular instance and upon written request, approve a waiver of the foregoing restrictions to permit a dwelling having a flat roof over not more than 25% of the horizontal area covered by roof.

H. Roofing Materials

Roofing shall be self-sealing composition roofing shingles (Heritage II TAMCO 25 year Weathered Wood or equivalent), provided however, in the event that such roofing should hereinafter not be reasonably available, alternative roofing of comparable quality shall be permitted upon the determination

of the Architectural Committee that the proposed alternative is of comparable or better quality and of a design and color which is compatible with the roofing first described above.

I. On-Site Construction

Each dwelling shall be built on-site and no dwelling built off-site shall be placed on any lot.

J. Outbuildings

Outbuildings are prohibited.

K. Swimming Pools

Above ground swimming pools are prohibited.

L. Interior Fencing

Interior fencing or walls shall not extend beyond the building lines of the lot and, if a residence is built behind the front building line of a lot, no fence may extend beyond that point nearest the street at each end corner of the residence, provided however, on corner lots fencing may extend to within 12.5 feet of the street right-of-way forming a side yard boundary of the lot. Fences shall be of wood, brick, stucco, black vinyl covered chain link with wood post, wrought iron, painted black or stone. Galvanized chain link, barbed wire, meshed and other metal fencing are prohibited. No fence shall exceed 6 feet in height; or as as directed and approved by the Owner/Developer and/or the Architectural Committee.

M. Collector Street Fencing

See Interior Fencing.

N. Antennas

Exterior antennas or other devices (including supporting structures) for the transmission or reception of radio, television, satellite signals or other form of electro-magnetic radiation are prohibited, except that within each Lot, one satellite dish, not exceeding 2 feet in diameter, and not installed on the front of the house, shall be permitted, and provided however, the Architectural committee may, in the particular instance and upon written request, approve a waiver of the foregoing restrictions.

O. Lot Maintenance

Each lot shall be maintained in a neat and orderly condition free of rubbish, trash and other debris and shall be cut, trimmed or mowed and edged to prevent growth of weeds or tall grass.

P. Recreational Vehicles

Boats, trailers, campers, motor homes and similar recreational vehicles and equipment shall not be stored on any lot except within an enclosed garage.

Q. Inoperative Vehicles or Machinery

No inoperative vehicle or machinery shall be stored on any lot except within an enclosed garage.

R. Clothesline

Exposed clothesline poles or other outside drying apparatus are prohibited.

S. Trash Containers

Trash containers, except during periods of collection, shall be stored out of view from abutting streets. No trash burning apparatus or structure shall be placed on any lot.

T. Mailboxes

All mailboxes shall be constructed out of brick for use in The Reserve at Battle Creek for United States Postal Service, all mailbox pedestals shall conform in design to a specific plan to be approved by the Architectural committee. The mailbox shall be positioned so that the front face is approximately 6 inches in from the base of the curb. The top of the mailbox shall be 42 inches from the street level.

U. Animals

No animals, livestock or poultry of any kind may be maintained, bred, sold or kept except that two dogs, two cats or other household pets may be kept provided that they are not used for commercial purposes.

V. Noxious Activity

No noxious or offensive trade or activity shall be carried out upon any lot nor shall anything be done thereon that may be or may become an annoyance or nuisance to the neighborhood.

W. Signage

No sign of any kind shall be displayed to the public view on any lot except one sign of not more than 6 square feet advertising the property for sale or rent or signs used by a builder to advertise the property during the construction and sales period.

X. Material and Storage

No lot shall be used for the storage of materials for a period of greater than 30 days prior to the start of construction and the construction shall be completed within 9 months thereafter. Each lot shall be maintained in a neat and orderly condition.

Y. Temporary Trash Receptacle

A temporary trash receptacle shall be provided on each lot during the period of construction of the dwelling. The maintenance of the trash receptacle is the responsibility of the lot owner and the receptacle shall be emptied on a regular or as needed basis.

SECTION IV. HOMEOWNERS' ASSOCIATION

WHEREAS, the Owner/Developer desires to establish provision for homeowners' associations and then maintenance of common areas.

THEREFORE, the Owner/Developer does hereby impose the following restrictions and covenants which

shall be covenants running with the land, and shall be binding upon the Owner/Developer, its successors and assigns, and shall be enforceable as hereinafter set forth.

A. The Reserve at Battle Creek Association

A.1 Formation

The accompanying Plat is a planned residential community to be known as and hereinafter referred to as "The Reserve at Battle Creek". It is intended that the homeowners within each developed phase of The Reserve at Battle Creek shall be included as members of a master homeowners' association and in certain phases having distinct and separate common area interests, homeowners shall also be members of a separate homeowners' association. The Owner/Developer has formed or shall cause to be formed an association (hereinafter referred to as the "Master Association") of the owners of residential lots within The Reserve at Battle Creek which includes all lots within the accompanying plat, and shall be incorporated as a non-profit corporate entity to be established in accordance with the statutes of the State of Oklahoma, and is to be formed for the general purposes of maintaining the common areas, including but not limited to perimeter fencing and landscaping, open spaces and trail systems, and enhancing the value, desirability and attractiveness of The Reserve at Battle Creek.

A.2 Membership

Each record owner of the fee interest at a lot within The Reserve at Battle Creek shall be a member of the Master Association, and membership shall be appurtenant to and may not be separated from the ownership of a lot.

A.3 Assessments

Each record owner of the fee interest of a lot within The Reserve at Battle Creek shall be subject to assessment by the Master Association for the purposes improvement and maintenance of the general common areas of The Reserve at Battle Creek.

B. Blocks 1 and 2 The Reserve at battle Creek Homeowners' Association

B.1 Formation

The Owner/Developer has formed or shall cause to be formed an association (hereinafter referred to as the "Blocks 1 and 2 The Reserve at Battle Creek Homeowners' Association) of the owners of residential lots described as Blocks 1 and 2, The Reserve at Battle Creek. Blocks 1 and 2 The Reserve at Battle Creek Homeowners' Association shall be incorporated as non-profit corporate entity to be established in accordance with the statutes of the State of Oklahoma, and is to be formed for the general purposes of maintaining the common areas, including but not limited to the private streets, and enhancing the value, desirability and attractiveness of Blocks 1 and 2, The Reserve at Battle Creek.

B.2 Membership

Each record owner of the fee interest of a lot within Blocks 1 and 2, The Reserve at Battle Creek shall be a member of the Master Association, and membership shall be appurtenant to and may not be separated from the ownership of a lot. In a addition to membership in the Master

Association, each record owner of the fee interest of a lot within blocks 1 and 2, The Reserve at Battle Creek shall be a member of Blocks 1 and 2 The Reserve at Battle Creek Homeowners' Association, and membership shall be appurtenant to and may not be separated from the ownership of a lot.

B.3 Assessments

Each record owner of the fee interest of a lot within Block 1 and 2, The Reserve at Battle Creek shall be subject to assessment by the Master Association for the purposes of improvement and maintenance of the general common areas of The Reserve at Battle Creek. In addition to assessment by the Master Association, each record owner of the fee interest of a lot within Blocks 1 and 2, The Reserve at Battle Creek Homeowners' Association for the purposes of improvement and maintenance of the separate common areas of Blocks 1 and 2, The Reserve at Battle Creek.

C. Blocks 8, 9, and 10 The Reserve at Battle Creek Homeowners' Association

C.1 Formation

The Owner/Developer has formed or shall cause to be formed an association hereinafter referred to as the "Blocks 8, 9, and 10 The Reserve at Battle Creek Homeowners' Association") of the owners of residential lots described as Blocks 8, 9 and 10, The Reserve at Battle Creek. Blocks 8, 9, and 10 The Reserve at Battle Creek Homeowners' Association shall be incorporated as a non-profit corporate entity to be Established in accordance with the statutes of the State of Oklahoma, and is to be formed for the general purposes of maintaining the common areas, including but not limited to the private streets, and enhancing the value, desirability and attractiveness of Blocks 8, 9, and 10, The Reserve at Battle Creek.

C.2 Membership

Each record owner of the fee interest of a lot within Blocks 8, 9, 10, The Reserve at Battle Creek shall be a member of the Master Association, and membership shall be a member be appurtenant to and may not be separated from the ownership of a lot. In addition to membership in the Master Association each record owner of the fee interest of a lot within Blocks 8, 9, 10, The Reserve at Battle Creek shall be a member of Blocks 8, 9, 10, The Reserve at Battle Creek Homeowners' Association, and membership shall be appurtenant to and may not be separated from the ownership of a lot.

C.3 Assessments

Each record owner of the fee interest of a lot within Blocks 8, 9, and 10, The Reserve at Battle Creek shall be subject to assessment by the Master Association for the purposes of improvement and maintenance of the general common areas of The Reserve at Battle Creek. In addition to assessment by the Master Association, each record owner of the fee interest of a lot within Blocks 8, 9, and 10, The Reserve at Battle Creek Homeowners' Association for the purposes of improvement and maintenance of the separate common areas of Blocks 8, 9, and 10, The Reserve at Battle Creek.

D. Certain Rights of the Association

Without limitation of such other powers and rights as the Associations may have, the Master Association, Blocks 1 and 2 The Reserve at Battle Creek Homeowners' Association and Blocks 8, 9 and 10 The Reserve a Battle Creek Homeowners' Association shall each be deemed a beneficiary of and shall have the right to enforce the various covenants set forth within this Section IV.

SECTION V. ENFORCEMENT, DURATION, AMENDMENT AND SEVERABILITY

A. Enforcement

The restrictions herein set forth are covenants to run with the land and shall be binding upon the Owner/Developer, its successors and assigns. Within the provisions of Section I. Streets, Easements and Utilities are set forth certain covenants and the enforcement rights pertaining thereto. The covenants contained in Section

II. Planned Unit Development

Restrictions are established pursuant to the Planned Unit Development provisions of the Broken Arrow Zoning Ordinance and shall inure to the benefit of the owners of lots within the Subdivision shall inure to the benefit of the City of Broken Arrow, Oklahoma. The covenants within Section III. Private Building and Use Restrictions shall inure only to the benefit of owners of lots within the Subdivision and the homeowners' associations provided for in Section IV. Within the provision of Section IV. Homeowners' Associations are set forth certain covenants and the enforcement rights pertaining thereto. If the undersigned Owner/Developer, or its successors or assigns, shall violate any of the covenants within Section II. Planned Unit Development Restrictions, it shall be lawful for any owner of any lot within the Subdivision or any of the homeowners' associations provided for within Section IV. or the City of Broken Arrow to maintain any action at law or in equity against the person or persons violating or attempting to violate any such covenant, to prevent him or them from so doing or to compel compliance with the covenant or to recover damages. If the undersigned Owner/Developer, or its successors or assigns, shall violate any of the covenants within Section III. Private Building and Use Restrictions, it shall be lawful or any owner of any lot within the Subdivision or any of the homeowners' associations provided for within Section IV. to maintain any action at law or in equity against the person or persons violating or attempting to violate any such covenant, to prevent him or them from doing or to compel compliance with the covenant or to recover damages. In any judicial action brought by a homeowners' association or any lot owner, which action seeks to enforce the covenants or restrictions set forth within Section II. Planned Unit Development Restrictions or Section III. Private Building and Use Restrictions, or to recover damages for the breach thereof, the prevailing party shall be entitled to receive his or its reasonable attorney fees and costs and expenses incurred in such action.

B. Duration

These restrictions, to the extent permitted by applicable law, shall be perpetual but in any event shall remain in full force and effect for a tem of not less than thirty (30) years from the date of the recording of this Deed of Dedication unless terminated or amended as hereinafter provided.

C. Amendment

The covenants contained within Section I. Streets, Easements and Utilities may be amended or terminated at any time by a written instrument signed and acknowledged by the owner of the land to which the

