

DEED OF DEDICATION AND RESTRICTIVE COVENANTS FOR MUHICH INDUSTRIAL PARK

KNOW ALL MEN BY THESE PRESENTS:

THAT JM Assets, LP, a Texas Limited Partnership, hereinafter referred to as the "Owner/Developer" is the owner of the following described real estate situated in the City of Broken Arrow, Tulsa County, State of Oklahoma, to wit:

A tract of land located in the W/2 of the NE/4 of Section 8, T-18-N, R-15-E of the Indian Meridian, Wagoner County, State of Oklahoma, according to the Official U.S. Government Survey thereof, being more particularly described as follows:

A tract of land located in the W/2 of the NE/4 of Section 8, T-18-N, R-15-E of the Indian Meridian, Wagoner County, State of Oklahoma, according to the Official U.S. Government Survey thereof, being more particularly described as follows:

Commencing at the northeast corner of the W/2 of the NE/4 of Section 8, T-18-N, R-15-E; Thence S 01°18'38"E along the easterly line of said W/2 of the NE/4 a distance of 50.00 feet to the "Point of Beginning";

Thence continuing S 01°18'38"E along the easterly line of said W/2 of the NE/4 a distance of 2592.56 feet to the southeast corner of said W/2 of the NE/4;

Thence S 88°44'53"W along the south line of the NE/4 a distance of 1320.67 feet to the southwest corner of the NE/4;

Thence N 01°20'04"W along the west line of the NE/4 a distance of 2040.89 feet to the southeasterly line of a tract of land per General Warranty Deed recorded in Book 1570, Page 543;

Thence N 33°20'31"E along said southeasterly line a distance of 182.38 feet to the southerly line of "Broken Arrow-WF Addition", a subdivision in the City of Broken Arrow, Wagoner County, State of Oklahoma, according to the official recorded plat thereof, filed as PLC5-422B in the records of the Wagoner County Clerk's office;

Thence N 88°40'32"E along said southerly line and parallel with the north line of the NE/4 a distance of 597.00 feet to the southeast corner of Tract B of said "Broken Arrow-WF Addition";

Thence N 01°19'28"W along the east line of said Tract B a distance of 150.00 feet;

Thence N 02°29'23"E continuing along said east line a distance of 150.33 feet;

Thence N 01°19'28"W continuing along said east line a distance of 65.01 feet;

Thence N 43°40'32"E continuing along said east line a distance of 49.49 feet to a point 50.00 feet south of a measured perpendicular to the north line of the NE/4;

Thence N 88°40'32"E and parallel with the north line of the NE/4 a distance of 576.08 feet to the east line of the W/2 of the NE/4 and the "Point of Beginning".

Said tract contains 3,133,812 square feet or 71.9424 acres.

The non-astronomic bearings for said tract are based on the Oklahoma State Plane Coordinate North Zone with a bearing of N 88°40'32"E along the north line of the NE/4 of Section 8, T-18-N, R-15-E of the Indian Meridian, Wagoner County, State of Oklahoma, according to the Official U.S. Government Survey thereof.

Owner/Developer has caused the above described lands to be surveyed, staked, platted and subdivided into ten (10) lots and one (1) block in conformity with the accompanying plat, and has designated the subdivision as "MUHICH INDUSTRIAL PARK", a subdivision in the City of Broken Arrow, Wagoner County, State of Oklahoma.

SECTION I. STREETS, EASEMENTS AND UTILITIES

1.1 Public Streets and General Utility Easements

The Owner/Developer does hereby dedicate for public use the street (East Kenosha Street) as depicted on the accompanying plat; and does further dedicate for public use the utility easements as depicted on the accompanying plat as "Utility Easement" or "U/E", 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 hereby reserves the right to construct, maintain, operate, lay and re-lay water lines and sewer lines, together with the right of ingress and egress for such construction, maintenance, operation, laying and re-laying over, across and along the public street and the utility easements depicted on the plat, for the purpose of furnishing water and/or sewer services to the area included in the plat. The Owner/Developer herein imposes a restrictive covenant, which covenant shall be binding on the Owner/Developer 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 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 or other similar improvements that do not constitute an obstruction.

1.2 Underground Service

1.2.1 Overhead poles may be located along the northerly perimeter of the subdivision as necessary if located in utility easements for the purpose of the supply of underground service. Street light poles or standards may be served by underground cable, and except as provided in the immediately preceding sentence, all electric and communication supply lines shall be located underground, in the easement-ways reserved for general utility services and streets, shown on the attached plat. The owner does hereby restrict the utility easements shown and designated on the accompanying plat to a single supplier of electrical service.

1.2.2 All supply lines in the subdivision including electric, telephone, cable television and gas lines shall be located underground in the easements reserved for general utility services and streets shown on the plat of the subdivision. Service pedestals and transformers, as sources of supply at secondary voltages, may also be located in said easements.

1.2.3 Underground service cables and gas service lines to all structures which may be located on all lots in the subdivision may be run from the nearest gas main, service pedestal or transformer to the point of usage determined by the location and construction of such structure as may be located upon each said lot: provided that upon the installation of such a service cable or gas service line to a particular structure, the supplier of service shall thereafter be deemed to have a definitive, permanent, and effective right-of-way easement on said lot, covering a five-foot strip extending 2.5 feet on each side of such service cable or line, extending from the service pedestal, transformer or gas main to the service entrance on the structure or a point of metering.

1.2.4 The supplier of electric, telephone, cable television and gas services, through its authorized agents and employees, shall at all times have right of access to all such easements shown on the plat to the subdivision or 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 service facilities so installed by it. The supplier of electric, telephone, cable television also reserve the perpetual right, privilege and authority to cut down, trim, or treat any trees and undergrowth on said easement.

1.2.5 The owner of each lot in the subdivision shall be responsible for the protection of the underground electric facilities located on his property and shall prevent the alteration of grade or any construction activity which may interfere with said electric, telephone, cable television or gas facilities. The supplier of service will be responsible for ordinary maintenance of underground facilities, but the owner of each lot in the subdivision will pay for damage or relocation of such facilities caused or necessitated by acts of such owner or his agents or contractors. The foregoing covenants concerning underground facilities shall be enforceable by the supplier of electric, telephone, cable television or gas service.

1.3 Water and Sewer Service

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

1.3.2 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, to include: valve boxes, fire hydrants and manholes will be adjusted to the new grade by the owner or at the owner's expense.

1.3.3 The City of Broken Arrow, Oklahoma, or its successors, shall be responsible for ordinary 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.

1.3.4 The City of Broken Arrow, Oklahoma, or its successors, shall at all times have right of access to all easementways depicted on the accompanying 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.

1.3.5 The foregoing covenants set forth in this subsection 1.3 shall be enforceable by the City of Broken Arrow, Oklahoma, or its successors, and the owner of the lot agrees to be bound hereby.

1.4 Surface Drainage

The lot shall receive and drain, in an unobstructed manner, the storm and surface waters from drainage areas of higher elevation and from public streets and easements. The lot owner shall not construct or permit to be constructed any fencing or other obstructions which would impair the drainage of storm and surface waters over and across the lot. The foregoing covenants set forth in this paragraph 1.4 shall be enforceable by any affected lot owner and by the City of Broken Arrow, Oklahoma.

1.5 Paving and Landscaping Within Easements

The owner of the lot shall be responsible for repair of damage to the landscaping and paving occasioned by the necessary installation of, or maintenance to, the underground water, sewer, storm water, gas, communication, cable television, or electric facilities within the easements depicted on the accompanying plat, provided however, that the City of Broken Arrow or the supplier of the utility service shall use reasonable care in the performance of such activities.

1.6 Limits of No Access

The undersigned Owner/Developer hereby relinquishes rights of vehicular ingress or egress from any portion of the property adjacent to East Kenosha Street within the bounds designated as "Limits of No Access" (L.N.A.) on the Plat, which "Limits of No Access" may be amended or released by the Broken Arrow Planning Commission, or its successor, and with the approval of the City of Broken Arrow, Oklahoma, or as otherwise provided by the statutes and laws of the State of Oklahoma pertaining thereto, and the limits of no access above established shall be enforceable by the City of Broken Arrow, Oklahoma.

SECTION II. PLANNED UNIT DEVELOPMENT RESTRICTIONS

WHEREAS, "MUHICH INDUSTRIAL PARK" was submitted as a planned unit development (entitled PUD No. 259) as provided within Section 6.4 of the Zoning Ordinance of the City of Broken Arrow, Oklahoma (Ordinance No. 2931) as amended and existing on April 4, 2017 (hereinafter the "Broken Arrow Zoning Ordinance"), which PUD No. 259 was approved by the Broken Arrow Planning Commission on March 23, 2017 and approved by the City of Broken Arrow City Council, on April 4, 2017; 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 ensure 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:

The development of "MUHICH INDUSTRIAL PARK" shall be subject to the Planned Unit Development provisions of the Broken Arrow Zoning Code as such provisions existed on April 4, 2017, or as may be subsequently amended.

2.1 Development Standards - Lot 1/Block 1

2.1.1 Permitted Uses: As permitted in the CH District, by right or specific use permit.

2.1.2 Minimum Building Set Backs: From East Kenosha Street ROW 50 feet, From South 45° Place ROW 110 feet, From the east boundary 0 feet, From the south boundary 20 feet.

2.1.3 Parking: As provided in accordance with "Section 5.4 - Off Street Parking and Loading" of the City of Broken Arrow Zoning Ordinance.

2.1.4 Sign Standards: As provided in accordance with "Section 5.7 - Signs" of the City of Broken Arrow Zoning Ordinance except no flashing, twinkling or animated signs shall be allowed. In addition, no portable signs or banners shall be placed on the lot. Freestanding signs may be permitted within a utility easement only if approval is granted by all utility companies. Freestanding signs shall be located a minimum of five feet from any sidewalk. All freestanding signs shall have a monument type base that covers support structures. The base of the sign shall be of the same material as the principal building on the lot.

2.1.5 Exterior Building Materials: The exterior vertical walls of all buildings abutting and adjacent to East Kenosha Street and 45th Place shall be constructed of masonry material.

2.1.6 Landscaping: Landscaping shall be provided in accordance with Section 5.2 of the City of Broken Arrow Zoning Ordinance along both Kenosha Street and 45th Place except that a landscape edge of 20 feet shall be provided along Kenosha Street and a landscape edge of 10 feet shall be provided along 45th Place.

2.2 Development Standards - Lots 3, 4, 8 and 9/Block 1

2.2.1 Lots 3, 4, 8 and 9/Block 1 are regulated by the Department of Environmental Quality (DEQ) and will require DEQ approval before any development is possible. Lots 3, 4, 8 and 9/Block 1 shall be governed by the City of Broken Arrow Zoning Ordinance and the use and development regulations of the IL District, except as hereinafter modified.

2.2.2 Permitted Uses: Mini-Storage, RV Storage, Storage Yard (lay down areas*), Office/Warehouse, Warehouse, Utility Facility (minor), General Industrial Service, Light Assembly or similar uses.

* Lay down areas are to be arranged in a neat and orderly fashion.

2.2.3 Minimum Building Set Backs: From South 45° Place 30 feet, From the north boundary 0 feet, From the south boundary 0 feet, From abutting A-1 District 30 feet.

2.2.4 Parking: As provided in accordance with "Section 5.4 - Off Street Parking and Loading" of the City of Broken Arrow Zoning Ordinance.

2.2.5 Sign Standard: As provided in accordance with "Section 5.7 - Signs" of the City of Broken Arrow Zoning Ordinance.

2.3 Development Standards - Lots 5, 6, 7 and 10/Block 1

2.3.1 Lot 7/Block 1 is regulated by the Department of Environmental Quality (DEQ) and will require DEQ approval before any development is possible. Lots 5, 6, 7 and 10/Block 1 shall be governed by the City of Broken Arrow Zoning Ordinance and the development regulations of the IL District, except as hereinafter modified.

2.3.2 Permitted Uses: Mini-Storage, RV Storage, Storage Yard (lay down areas*), Office/Warehouse, Warehouse, Utility Facility (minor), General Industrial Service, Light Assembly or similar uses.

* Lay down areas are to be arranged in a neat and orderly fashion.

2.3.3 Minimum Building Set Backs: From South 45th Place 30 feet, Side Yard abutting Same Zoning District 0 feet, Side Yard abutting Non-Residential Zoning District 0 feet, Side Yard abutting Residential or A-1 Zoning District 30 feet.

2.3.4 Parking: As provided in accordance with "Section 5.4 - Off Street Parking and Loading" of the City of Broken Arrow Zoning Ordinance.

2.3.5 Sign Standard: As provided in accordance with "Section 5.7 - Signs" of the City of Broken Arrow Zoning Ordinance.

2.3.6 Landscaping: Landscaping shall be provided in accordance with Section 5.2 of the City of Broken Arrow Zoning Ordinance. A Landscape Buffer of at least 30 feet in width shall be provided along the east and south boundary of Lots 5, 6 and 7/Block 1 that abut Agriculture or Residential zoned land. Within the Landscape Buffer at least one medium to large tree shall be planted for every 25 lineal feet of landscape area, of which at least 50% shall be evergreen. Trees may be grouped together or evenly spaced. An effort will be made to preserve existing trees along the south and east boundary of Lots 5, 6 and 7/Block 1.

2.3.7 Fencing/Screening: An 8-foot opaque, screening fence shall be installed, in accordance with Section 5.2.E.2.c of the City of Broken Arrow Zoning Ordinance, along the south and east boundaries of Lots 5, 6 and 7/Block 1.

2.4 Development Standards - Lot 2/Block 1

2.4.1 Lot 2/Block 1 is regulated by the Department of Environmental Quality (DEQ) and will require DEQ approval before any development is possible. Lot 2/Block 1 will be monitored per DEQ standards and regulations, based on sites with characteristics and issues consistent with those of Lot 2/Block 1. This area is to be left in its native state.

2.4.2 Permitted uses: Open Space and Fencing

2.4.3 Fencing and Signage: A 6-foot opaque, screening fence shall be installed, in accordance with Section 5.2.E of the City of Broken Arrow Zoning Ordinance, along the boundary of Lot 2/Block 1. Appropriate signage will be utilized on the fence warning the public of the sensitive nature of the property.

SECTION III. ENFORCEMENT, DURATION, AMENDMENT, AND SEVERABILITY

3.1 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, and additionally the covenants within Section I, whether or not specifically therein so stated shall inure to the benefit of and shall be enforceable by the City of Broken Arrow, Oklahoma. The covenants contained in Section II. Planned Unit Development Restrictions are established pursuant to the Planned Unit Development provisions of the City of Broken Arrow Zoning Code and shall inure to the benefit of the City of Broken Arrow, Oklahoma, and the owners of the land within "MUHICH INDUSTRIAL PARK". If the undersigned Owner/Developer, or its successors or assigns, shall violate any of the covenants within Section II., it shall be lawful for the City of Broken Arrow, Oklahoma, or any owner of a part of the land within "MUHICH INDUSTRIAL PARK" 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. In any judicial action brought by an owner of a part of the land within "MUHICH INDUSTRIAL PARK" which action seeks to enforce the covenants or restrictions set forth herein or to recover damages for the breach thereof, the prevailing party shall be entitled to recover reasonable attorneys fees and costs and expenses incurred in such action.

3.2 Duration

These restrictions, to the extent permitted by applicable law, shall be perpetual but in any event shall be in force and effect for a term 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.

3.3 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 amendment or termination is to be applicable and approved by the Broken Arrow Planning Commission, or its successors and the City of Broken Arrow, Oklahoma. The covenants contained within Section II. Planned Unit Development Restrictions, may be amended or terminated at any time by a written instrument signed and acknowledged by the owner of the land to which the amendment or termination is to be applicable and approved by the Broken Arrow Planning Commission, or its successors. The provisions of any instrument amending or terminating covenants as above set forth shall be effective from and after the date it is properly recorded.

3.4 Severability

Invalidation of any restriction set forth herein, or any part thereof, by an order, judgment, or decree of any Court, or otherwise, shall not invalidate or affect any of the other restrictions or any part thereof as set forth herein, which shall remain in full force and effect.

IN WITNESS WHEREOF: JM Assets, LP, a Texas Limited Partnership, has executed this instrument this ___ day of _____, 2017.

JM Assets, LP a Texas Limited Partnership

John Muhich, Manager

State of Oklahoma)) ss County of Tulsa))

This instrument was acknowledged before me this ___ day of _____, 2017, by John Muhich, JM Assets, LP, a Texas Limited Partnership.

Notary Public My commission No. is _____ My commission expires _____

CERTIFICATE OF SURVEY

J. Patrick Murphy, of Tulsa Engineering & Planning Associates, Inc., a professional land surveyor registered in the State of Oklahoma, hereby certify that I have carefully and accurately surveyed, subdivided, and platted the tract of land described above, and that the accompanying plat designated herein as "MUHICH INDUSTRIAL PARK", a subdivision in the City of Broken Arrow, Wagoner County, State of Oklahoma, is a representation of the survey made on the ground using generally accepted land surveying practices and meets or exceeds the Oklahoma Minimum Standards for the Practice of Land Surveying as adopted.

Executed this ___ day of _____, 2017.

J. Patrick Murphy Registered Professional Land Surveyor Oklahoma No. 1511



State of Oklahoma)) s.s. County of Tulsa))

The foregoing Certificate of Survey was acknowledged before me this ___ day of _____, 2017, by J. Patrick Murphy.

Jack Taber, Notary Public My commission No. is 12005192 My commission expires May 31, 2020

APPROVED _____ by the City Council of the City of Broken Arrow, Oklahoma. Mayor Attest: City Clerk