

ASPEN CROSSING I

DEED OF DEDICATION
AND
RESTRICTIVE COVENANTS
PUD No. 260

KNOW CERTAIN PERSONS BY THESE PRESENTS:

That Aspen Crossing Development Company, L.L.C., an Oklahoma limited liability company, hereinafter referred to as the "Owner/Developer", is the owner of the following described land:

A tract of land located in the W/2 of the W/2 of the SW/4 of Section 3, T-17-N, R-14-E of the Indian Meridian, Tulsa County, State of Oklahoma, according to the Official U.S. Government Survey thereof, more particularly described as follows:

Commencing at the southwest corner of Section 3, T-17-N, R-14-E of the Indian Meridian, Tulsa County, State of Oklahoma, according to the Official U.S. Government Survey thereof, said point being also the southwest corner of the tract as described in the Deed of Dedication recorded in Book 4726, Page 212 in the records of the Tulsa County Clerk's office;

Thence N 00°19'16"W a distance of 516.28 feet along the west line of the SW/4 of said Section 3 and along the west line of said Deed of Dedication;

Thence N 89°40'44"E a distance of 60.00 feet to a point on the east line of said Deed of Dedication, said point being also the "Point of Beginning";

Thence N 00°19'16"W a distance of 957.17 feet parallel with and 60.00 feet east of as measured perpendicularly from the west line of the SW/4 of said Section 3 and along the east line of said Deed of Dedication;

Thence S 88°39'38"E a distance of 154.50 feet;

Thence N 79°14'41"E a distance of 193.10 feet;

Thence S 10°45'19"E a distance of 105.84 feet;

Thence N 79°14'41"E a distance of 178.46 feet;

Thence S 00°03'45"W a distance of 61.09 feet;

Thence S 17°55'24"E a distance of 200.85 feet to a point on the east line of the W/2 of the W/2 of the SW/4 of said Section 3, said point being also on the westerly line of "Southtowne Estates", a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma, according to the official recorded plat thereof, Plat No. 5599, as filed in the records of the Tulsa County Clerk's office;

Thence S 00°18'29"E a distance of 364.29 feet along the east line of the W/2 of the W/2 of the SW/4 of said Section 3 and the westerly line of said "Southtowne Estates";

Thence S 00°35'31"W a distance of 95.01 feet;

Thence S 00°00'00"E a distance of 150.00 feet;

Thence S 65°54'01"W a distance of 142.32 feet;

Thence N 89°54'57"W a distance of 466.69 feet to the "Point of Beginning";

Said tract contains 550,244 square feet or 12.6319 acres.

The non-astronomic bearings for said tract are based on an assumed bearing of N 89°54'57"W along the south line of the SW/4 of Section 3, T-17-N, R-14-E of the Indian Meridian, Tulsa

County, State of Oklahoma, according to the Official U.S. Government Survey thereof.

The Owner/Developer has caused the same to be engineered, surveyed, staked and platted into lots, blocks, streets, and reserve areas in conformity to the accompanying plat and survey thereof, which plat is made a part hereof (the "Plat"), and has caused the same to be named "ASPEN CROSSING I", a subdivision in the City of Broken Arrow, Tulsa County, State of Oklahoma (the "Subdivision").

SECTION I. STREETS, EASEMENTS AND UTILITIES

1.1 Public Streets and General Utility Easements

The Owner/Developer does hereby dedicate for public use the streets 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, fencing, curbing, irrigation 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 west 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/Developer 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 materially 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

Each lot on the Plat 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. Each lot owner, by taking title to a lot, shall be deemed to understand and agree that stormwater from other lots will flow across his/her lot and 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 Limits of No Access

The undersigned Owner/Developer hereby relinquishes rights of vehicular ingress or egress from any portion of the property adjacent to South Aspen Avenue 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.

1.6 Traffic Control Median

The Owner/Developer does hereby dedicate for private use Traffic Control Median "A" for the purpose of construction and maintenance of the traffic control median, provided however, the Owner/Developer herein reserves a perpetual easement, to be subsequently conveyed to the Homeowners' Association, to be comprised of the owners of the residential lots within "ASPEN CROSSING I" as set forth within Section III hereof, for the purposes of installation and maintenance of a monument sign within Traffic Control Median "A" identifying the subdivision and for the purposes of installation and maintenance of landscaping within Traffic Control Median "A". 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 or signage located within Traffic Control Median "A" and the City of Broken Arrow shall have no liability for any damage to signage or landscaping, including irrigation systems, occasioned by maintenance or reconstruction of the traffic control median or maintenance or reconstruction of the adjoining public streets.

1.7 Fence and Landscape Easements

The Owner/Developer herein establishes and reserves for subsequent conveyance to the Aspen Crossing I Homeowners' Association, Inc., formed pursuant to Section II - Declaration of Covenants, Conditions and Restrictions of Aspen Crossing I, a perpetual non-exclusive easement to erect and maintain fencing, walls, landscaping, and/or irrigation along the South and East property boundary of the subdivision within the Fence and Landscape Easement depicted on the accompanying plat.

1.8 Fence, Landscape, and Paving Repair

The owner of each lot shall be responsible for the repair and replacement of any fencing, landscaping, and paving located within the utility easements in the event it is necessary to repair any underground water,

sanitary sewer mains, storm sewers, electric, natural gas, telephone, or cable television service. No lot owner shall place any fencing, landscaping, or plant any trees or shrubbery in dedicated utility easements or rights-of-ways which would potentially endanger, threaten, or harm any utilities located within said easements or rights-of-ways. If it is determined that any fencing, landscaping, trees or shrubbery located within said easements or rights-of-way are damaging or endangering utilities in said easements or rights-of-way, the City of Broken Arrow and or respective utility provider shall have the right to remove said fencing, landscaping, trees or shrubbery upon five (5) days' notice there at the lot owner's expense, or within such time the lot owner may remove the same.

1.9 Homeowners' Association

As part of the development of the Subdivision, the Owner/Developer thereof has created or will create as per the Subdivision Regulations for the City of Broken Arrow the "ASPEN CROSSING I HOMEOWNERS' ASSOCIATION, L.L.C.", an Oklahoma not-for-profit, as set forth in the Restrictive Covenants, Conditions, and Restrictions for ASPEN CROSSING I.

1.10 Reserve Areas

Reserve areas shall be used for open space, signage, landscaping, walls, fencing, drainage, overland drainage, utilities, parking and ingress and egress and is reserved for subsequent conveyance to the Homeowners' Association to be comprised of the owners of the residential lots within "ASPEN CROSSING I" as set forth within Section III hereof. All costs and expenses associated with all reserves, including maintenance of various improvements will be the responsibility of the property owner. Fencing and walls shall meet the requirements of Section 5.2.E.3.iv of the City of Broken Arrow, Oklahoma Zoning Ordinance.

1.11 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 the construction of any fencing or other obstructions which would impair the drainage of storm and surface waters over and across their lot. The Owner/Developer expressly reserves the right to enter upon each lot for the purpose of resolving or curing drainage issues related to adjacent or nearby lots, including the trimming of trees, shrubs or turf, and the removal of fencing, as necessary.

1.12 Restrictive Covenants

Additional covenants and restrictions for ASPEN CROSSING I are filed, as a separate instrument, in the Tulsa County Clerk's office.

SECTION II. PLANNED UNIT DEVELOPMENT

WHEREAS, "ASPEN CROSSING I" was submitted as a planned unit development (entitled PUD No. 260) 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 May 16, 2017 (hereinafter the "Broken Arrow Zoning Ordinance"), which PUD No. 260 was approved by the Broken Arrow Planning Commission on April 27, 2017 and approved by the City of Broken Arrow City Council, on May 16, 2017; and

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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:

2.1 General Standards

The development of "ASPEN CROSSING I" shall be subject to the Planned Unit Development provisions of the Broken Arrow Zoning Code as such provisions existed on May 17, 2017.

2.2 Development Standards for Development Tract 1 (Lots 1-10, Block 1, Lots 1-28, Block 2 and Lots 1-11, Block 3):

- 2.2.1 Permitted Uses: Single-Family
Detached Residential
and Accessory Uses.
- 2.2.2 Minimum Lot Frontage 52 feet at Building Line
- 2.2.3 Minimum Lot Area 5,600 sf.
- 2.2.4 Maximum Building Height: 35 feet
- 2.2.5 Minimum Building Setbacks:
Front 25 feet
Rear 15 feet
Side 5/5 feet
Side, Corner Lot 15 feet/20 feet side
loaded garage
- 2.2.6 Access Limitations: No lots shall have direct access to
South Aspen Avenue.
- 2.2.7 Driveway Access Limitation: Within the boundaries of a Lot
designated on the Plat as "Driveway Access Limitation",
vehicular access to the adjoining public street shall be
prohibited.
- 2.2.8 Open Space: All open space not part of a Platted Lot shall
be designated as reserve areas and maintenance as such
shall be the responsibility of the Homeowners'
Association.

2.3 Landscaping and Screening

Landscaping will be provided along South Aspen Avenue in accordance with Section 5.2 City of Broken Arrow Zoning Ordinance. In addition, a landscape reserve of at least 10 feet in width shall be provided along South Aspen Avenue. All open space reserve areas shall be owned and maintained by the Homeowners' Association. Any landscape material that fails shall be replaced in accordance with the criteria contained in Section 5.2.B.4.d.ii of the Zoning Ordinance. Fencing and walls shall meet the requirements of Section 5.2.E.3.iv of the Zoning Ordinance, with all poles and bracing located on the interior side of the fence. Fencing along the arterial streets shall be installed by the Owner/Developer. In addition, the Owner/Developer shall install a minimum 6-foot high opaque fence on the portions of "ASPEN CROSSING I" that are located adjacent

to the proposed "Commercial Area" on the northeast corner of South Aspen Avenue and West Jasper Street.

Bracing and poles around the commercial area shall be located on the residential side. Maintenance and ownership of the fence along arterial streets and around the "Commercial Area" shall be the responsibility of the Homeowners' Association.

2.5 Sidewalks

- 2.5.1 The Developer is responsible for the maintenance of all sidewalks located along South Aspen Avenue until such time as the maintenance is turned over to the Homeowners' Association as established in Section III, Homeowners' Association.
- 2.5.2 Sidewalks shall be installed in accordance with the subdivision regulations. Sidewalks shall be constructed by the Owner/Developer in all reserve areas that are adjacent to a street.

SECTION III. HOMEOWNERS' ASSOCIATION

3.1. Formation

The Owner/Developer has formed or shall be caused to be formed, an association of owners of lots within the subdivision, which shall be named "ASPEN CROSSING I Homeowners' Association, Inc.", a not for profit (the "Association") for the general purposes of the maintenance and ownership of the Common Areas and to enhance the desirability and attractiveness of the Subdivision. The Owner/Developer may add or expand membership in the Association to include owners of other lots to be platted within Aspen Crossing II, generally located just North of and adjacent to Aspen Crossing I Plat. It is intended that the lot owners in Aspen Crossing I and II will form and be a part of the same singular Association. The Owner/Developer will control the Association until such time that it is turned over to the Homeowners. Every record owner of a fee interest in a lot in the subdivision shall be a member of the Association and such membership shall be appurtenant to and may not be separated from ownership of a lot. The acceptance of a deed to a lot shall constitute acceptance of membership in the Association. All members of the Association covenant and agree to pay to the Association an annual assessment established by the Association which shall be no less than the minimum amount necessary to adequately maintain and support all common areas of interest, including, without limitation, all reserve areas, and common areas as designated on the plat provided, however, no assessment shall be made or attach to any Lot owned by the Developer.

3.2. Maintenance

Reserve Areas: the Association, except as hereinafter provided, shall be responsible for the maintenance of improvements and landscaping within all reserve areas designated on the plat and the reserve areas are reserved for subsequent conveyance to the Association.

**SECTION IV.
ENFORCEMENT, DURATION, AMENDMENT, AND
SEVERABILITY**

4.1. Enforcement

The restrictions herein set forth shall 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 whether or not therein so stated the covenants within

Section I, shall inure to the benefit of and be enforceable by the City of Broken Arrow, Oklahoma.

4.2. Duration

These restrictions shall remain in full force and effect until 40 years from the date of filing this plat of record, and thereafter shall automatically be continued for successive periods of 10 years, unless terminated or amended as hereinafter provided.

4.3. Amendment

The covenants contained within SECTION I. STREETS, EASEMENTS AND UTILITIES, may be amended or terminated at any time by written instrument signed and acknowledged by the owners of the affected lot or parcel and by the Broken Arrow Planning Commission or its successors with the approval of the City of Broken Arrow, Oklahoma. All other covenants may be amended by the Owner/Developer unilaterally, in its sole discretion, for so long as the Owner/Developer owns a lot in the Subdivision or a later adjacent subdivision known as Aspen Crossing II; and, thereafter, at any time by an instrument in writing signed by the owners of at least sixty percent (60 %) of all lots in the Subdivision; providing, however, that until the Owner/Developer has sold all lots in the Subdivision, the Owner/Developer reserves the right to amend any of the covenants contained herein without the consent of the other owners if such amendment, in the sole opinion and discretion of the Owner/Developer, is necessary for the development and sale of the lots in the Subdivision. In this Section 4.3, the term "the Subdivision" shall explicitly mean the Plat of Aspen Crossing I and any later adjacent phase of Aspen Crossing located generally north of the Plat.

4.4. 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 of any part hereof as set forth herein, which shall remain in full force and effect.

4.5 Lot owner's Responsibilities

The respective lot owner of each dwelling and said lot owner's builder shall be responsible for all structure design, geotechnical design, foundation design, grading, drainage, and all other structural aspects of the dwelling independent of the Owner/Developer and the Owner/Developer's engineer. The respective lot owner of each dwelling and the lot owner's builder shall be responsible for determining the proper finish floor elevation of the respective dwelling. The finished floor elevation shall be determined relative to, but not limited to: roadways, areas of higher elevations, borrow ditches, culvert pipes, elevation of adjacent lots, etc. It is the dwelling owner's responsibility to prepare the finished grade of each individual home site so as to insure that storm water is property managed around the perimeter of the subject home. Said lot owner and its builder shall construct the dwelling in accordance with the municipal, county and, state building codes that are customarily applicable in this region to such construction.

IN WITNESS WHEREOF, the undersigned Owner/Developer, has executed this instrument this ____ day of _____, 2018.

Aspen Crossing Development Company, L.L.C.
an Oklahoma limited liability corporation

By: David E. Charney, President of
Charney Properties, Inc., as Manager of Aspen
Crossing Development Company, L.L.C.

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

This instrument was acknowledged before me this ____ day of _____, 2018, by David E. Charney, Manager of Aspen Crossing Development Company, L.L.C.

Notary Public
My commission No. _____
Expires _____

CERTIFICATE OF SURVEY

I, 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 "ASPEN CROSSING I", a subdivision in the City of Broken Arrow, Tulsa 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 _____, 2018

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 _____, 2018, by J. Patrick Murphy.

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