





# Deed of Dedication and Declaration of Restrictive Covenants TIGER PLAZA

I, the undersigned, the duly qualified county Treasurer, of Wagoner County, Wagoner, Oklahoma, hereby certify that according to the 2001 tax rolls the taxes on the above description are paid.

Mary Sue Tedder, County Treasurer  
*Mary Sue Tedder*  
Deputy

APPROVED 5-21-01 by the City Council of the City of Broken Arrow, Oklahoma.  
James C. Reynolds  
Mayor  
Brenda Kay  
Attest: City Clerk 10-9-01

### KNOW ALL MEN BY THESE PRESENTS:

Albertson's Inc., A Delaware Corporation, and Larry D. Fleming (the Declarants) being the owners of the following described real property situated in the City of Broken Arrow, Wagoner County, State of Oklahoma:

THE SOUTH SIX-HUNDRED SIXTY (660) FEET OF GOVERNMENT LOT SEVEN (7), OF SECTION SIX (6), TOWNSHIP EIGHTEEN (18) NORTH, RANGE FIFTEEN (15) EAST OF THE INDIAN BASE AND MERIDIAN, WAGONER COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE UNITED STATES GOVERNMENT SURVEY THEREOF, LESS AND EXCEPT THAT PORTION DESCRIBED AS AMENDED WAGONER COUNTY LINE PLAZA, A SUBDIVISION TO THE CITY OF BROKEN ARROW, WAGONER COUNTY, STATE OF OKLAHOMA, ACCORDING TO THE RECORDED PLAT THEREOF.

have caused the same to be surveyed, staked, and platted in conformity with the accompanying plat, and has designated the same as "TIGER PLAZA", a subdivision in the City of Broken Arrow, Wagoner County, State of Oklahoma.

### SECTION I. STREETS, EASEMENTS, AND UTILITIES

#### A. 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 utility use the utility easements as depicted on the accompanying 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, for the purpose of furnishing water and/or sewer services to the area included in the plat and to areas outside of the plat, with the rights of reasonable 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 all of the utility easements depicted on the plat. 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 streets and utility easements depicted on the accompanying plat no building, structure or other above or below ground obstruction that interferes with above set forth uses and purposes of a street or 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 that do not constitute an obstruction as aforesaid.

#### B. UNDERGROUND UTILITIES

- Overhead lines for the supply of electric, telephone, and communication service may be installed within the utility easements shown on the accompanying plat. Street light poles or standards shall be served by underground cable, and elsewhere throughout said plat all supply lines shall be located underground in the streets, easements, and rights-of-way shown on said plat. Service pedestals and transformers, as sources of supply at secondary voltages, also may be located in said easements.
- Underground service cables to all structures may be run from the nearest service pedestal or transformer to the point of usage as located on said structure; PROVIDED that upon the location of such service cable, the supplier of service shall have thereafter a definitive, permanent, effective, and non-exclusive right-of-way easement covering a five-foot strip extending 2.5 feet on each side of the service cable and extending from the service pedestal or transformer to the service entrance on said structure.
- The supplier of electric, telephone, communication, or natural gas service, through its proper agents and employees, shall at all times have the reasonable right of access to all easements shown 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 the underground facilities or appurtenances installed or maintained by said supplier.
- The owner of each lot shall be responsible for the protection of the underground utility facilities located on the lot and shall prevent the material alteration of grade or any other construction activity which would interfere with the utility facilities. The supplier of service shall be responsible for the ordinary maintenance of underground utility facilities, but the lot owner shall pay for the repair or relocation of such facilities caused or necessitated by the acts of the owner or his agents or contractors.
- The foregoing covenants set forth in paragraph B. shall be enforceable by the supplier of service and the owner of each lot agrees to be bound hereby.

#### C. WATER, SANITARY SEWER, AND STORM SEWER

- The owner of each lot shall be responsible for the protection of the public water mains, sanitary sewer mains, and storm sewer mains located upon the lot.

- Within the streets, easements, and rights-of-way depicted on the accompanying plat, the alteration of ground elevations in excess of 3 feet from the contours existing upon the completion of the installation of any public water or sewer main or any construction activity which would interfere with any public water or sewer main shall be prohibited.

- The City of Broken Arrow, Oklahoma, or its successors, shall be responsible for ordinary maintenance of public water mains, sanitary sewer mains, and storm sewer mains. PROVIDED, the owner of each lot shall pay for the repair or relocation of such facilities caused or necessitated by the acts of the owner or his agents or contractors.

- The City of Broken Arrow, Oklahoma, or its successors shall at all times have reasonable right of access to all streets, easements, or rights-of-way dedicated 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 the public water mains, sanitary sewer mains, or storm sewer mains.

- The foregoing covenants set forth in paragraph C. shall be enforceable by the City of Broken Arrow, Oklahoma, or its successors and the owner of each lot agrees to be bound hereby.

#### D. SURFACE STORMWATER DRAINAGE

The property depicted on the accompanying plat shall receive, in an unobstructed manner, the storm and surface waters from lots and drainage areas of higher elevations existing as of the date hereof 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 the lot. The foregoing covenants set forth in paragraph D. shall be enforceable by any adversely affected property owner and by the City of Broken Arrow, Oklahoma, or its successor.

#### E. RESERVE 'A' - STORMWATER DETENTION EASEMENT

- Reserve 'A' as depicted on the Plat is being granted to the City of Broken Arrow as an Stormwater Detention Easement for the purpose of permitting the flow, conveyance and discharge of storm water runoff from property within the subdivision.
- Drainage facilities or other improvements constructed in the Stormwater Detention Easement shall be in accordance with the adopted standards of the City of Broken Arrow, Oklahoma.
- No fence, wall, building or other obstruction may be placed or maintained in the Stormwater Detention Easement nor shall there be any alteration of the grades or contours in the easement areas unless approved by the City of Broken Arrow, Oklahoma, provided, however, that the planting of turf or single trunk trees having a caliper of not less than two and one-half (2 1/2) inches shall not require the approval of the City of Broken Arrow, Oklahoma.
- Maintenance of the Overland Drainage Easement & Reserve 'A' shall be by the owner of the Lots within Tiger Plaza in accordance with Standards prescribed by the City of Broken Arrow. In the event the owner should fail to properly maintain the easement area and facilities located thereon or, in the event of the placement of an obstruction within the easement area, or the alteration of the grade or contour therein, the City of Broken Arrow, Oklahoma, or its designated contractor may enter the easement area and perform maintenance necessary to the achievement of the intended drainage functions and may remove any obstruction or correct any alteration of grade or contour, and the cost thereof, shall be paid by the owner thereof. In the event the owner fails to pay the cost of maintenance after completion of the maintenance and receipt of a statement of costs, the City of Broken Arrow, Oklahoma, may file of record a copy of the statement of costs, and thereafter the costs shall be a lien against said Lot as the case may be which lien may be foreclosed by the City of Broken Arrow, Oklahoma.

#### F. PAVING AND LANDSCAPING WITHIN EASEMENTS

Any party exercising easement rights hereunder shall be responsible for the repair and replacement of any landscaping and paving within the utility easements on the lot in the event it is necessary to repair or maintain any underground utility service; PROVIDED HOWEVER, the City of Broken Arrow, Oklahoma, or the supplier of the underground utility service shall use reasonable care in the performance of such activities. Nothing contained within this declaration shall be deemed to prohibit drives, parking areas, curbing, landscaping, and customary screening fences and walls that do not constitute an obstruction.

#### G. LIMITS OF NO ACCESS

The Declarants do hereby relinquish rights of vehicular ingress or egress within any portion of the property adjacent to North 23rd Street and East Kenosha Street 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 Metropolitan Area Planning Commission, or its successor, and ratified by the City of Broken Arrow, Oklahoma, or as otherwise provided by the laws and statutes of the State of Oklahoma pertaining thereto.

#### H. BUILDING SET-BACKS

No building or fences shall be erected nearer to a public street than the BUILDING SETBACK lines depicted on the accompanying plat.

#### I. MUTUAL ACCESS EASEMENTS

The Owner/Developer hereby grants and establishes a perpetual non-exclusive mutual access easement for the purposes of permitting vehicular and pedestrian passage to and from lots 1, 2 and 3 to and from North 23rd Street and East Kenosha Street on, over and across the area within Lots 1, 2 and 3 depicted on the accompanying plat as "Mutual Access Easement".

### SECTION II. ENFORCEMENT, DURATION, AMENDMENT, AND SEVERABILITY

#### A. ENFORCEMENT

The restrictions set forth herein are covenants to run with the land and shall be binding upon the Declarant, its successors and assigns. Within 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 so stated therein, shall inure to the benefit of and shall be enforceable by the City of Broken Arrow, Oklahoma.

#### B. DURATION AND AMENDMENT

Private restrictions set forth are covenants that shall run with the land, unless, by a majority vote of the then owners of the land within the subdivision it is agreed with the approval of the Broken Arrow Metropolitan Area Planning Commission and the City of Broken Arrow, Oklahoma, or as otherwise provided by law, to terminate such restrictions in whole or in part; PROVIDED, such restrictions may be amended or modified at any time by a majority of the then owners of the land within the subdivision with the approval of the Broken Arrow Metropolitan Area Planning Commission and the City of Broken Arrow, Oklahoma, or as otherwise provided by law.

#### C. SEVERABILITY

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

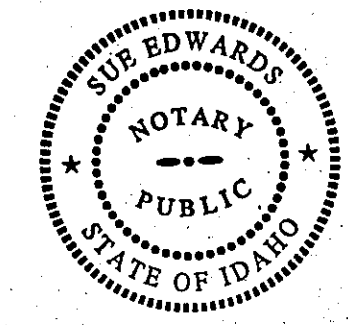
IN WITNESS WHEREOF: Albertson's Inc., A Delaware Corporation, has executed this instrument this 4th day of October, 2001.  
ALBERTSON'S INC., a Delaware corporation  
by: *[Signature]*  
its: Vice President, Real Estate Law

STATE OF IDAHO )  
COUNTY OF ADA ) ss.

This instrument was acknowledged before me on this 4th day of October, 2001, by Lincoln V. Sharp, Jr., the Vice President, Real Estate Law of the Albertson's Inc., A Delaware Corporation

*[Signature]*  
Notary Public

My Commission Expires: 10/15/05

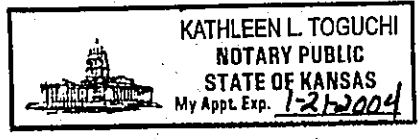


IN WITNESS WHEREOF: Larry D. Fleming, has executed this instrument this 2nd day of October, 2001.

by: *[Signature]*

This instrument was acknowledged before me on this 2nd day of October, 2001, by Larry D. Fleming

*[Signature]*  
Notary Public



My Commission Expires: 1-21-2004

STATE OF KANSAS )  
COUNTY OF EDGEMONT ) ss.

#### CERTIFICATE OF SURVEY

White Surveying Company, an Oklahoma corporation, by the undersigned, a Registered Professional Land Surveyor in the State of Oklahoma, does hereby certify that the tract of land described hereon has been carefully surveyed, subdivided and platted and that the plat attached hereto and designated as "TIGER PLAZA" is a true representation of said survey and is in conformance with the Oklahoma Minimum Standards for the Practice of Land Surveying as adopted by the Oklahoma Board of Registration for Professional Engineers and Land Surveyors.

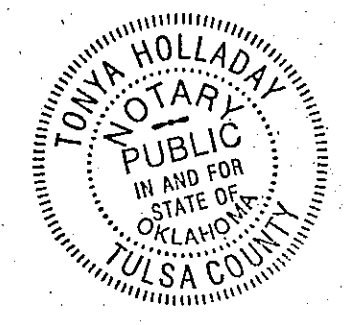
*[Signature]*  
Tom A. Haynes, RPLS  
President



STATE OF OKLAHOMA )  
COUNTY OF TULSA ) ss.

This instrument was acknowledged before me on this 28th day of September, 2001, by Tom A. Haynes, RPLS.

*[Signature]*  
Notary Public



My Commission Expires: 09/08/07

### TIGER PLAZA FINAL PLAT

SHEET 2 OF 2

CERTIFIED TRUE COPY  
JERRY FIELDS COUNTY CLERK  
Wagoner County, Okla.  
By: *[Signature]*  
DEPUTY

NA 08181855 ALBERTSON FINAL.DWG