DECLARATION FOR PRAIRIE VIEW ADDITION

Located In The City Of Bartlesville, Washington County, Oklahoma

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DECLARATION FOR PRAIRIE VIEW #DDITION

A Subdivision Located In The City Of Bartlesville, Washington County, Oklahoma

THIS DECLARATION FOR PRAIRIE VIEW **DDETED** ("Declaration") is made effective as of the date of the recording of this Declaration in the Washington County real property records (the "Effective Date") by Prairie View Communities LLC, a Colorado limitec liability company, with an address at 11675 W. 17th Avenue, Lakewood, Colorado 80211 ("PVC" or "Declarant"), for the purpose of forming a real estate development under the terms of the Oklahoma Owners Association Statutes, Sections 60-851 through 60-857, as amended, and as may be hereafter amended (the "Statutes").

RECITALS

- A. Declarant owns certain real property located in the City of Bartlesville, Washington County, Oklahoma, legally described and platted in the real property records of Washington County as THE WEST HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (W/2 SE/4 NE/4), SECTION 5, TOWNSHIP 26 NORTH, RANGE 13 EAST OF THE INDIAN MERIDIAN, WASHINGTON COUNTY, OKLAHOMA, LESS A TRACT DESCRIBED AS BEGINNING 50 FEET EAST AND 25 FEET NORTH OF THE SOUTHWEST CORNER OF SW/4 SE/4 NE/4; THENCE WEST 50 FEET; THENCE NORTH 25 FEET; THENCE SOUTHEASTERLY TO THE POINT OF BEGINNING, the Prairie View Addition to the City of Bartlesville, Washington County, Oklahoma, pursuant to the subdivision map (the "Subdivision Map") recorded on Supply 3, 2005, at Reception No. 2005 1907 in the real property records of Washington County (property and development collectively referred to hereinafter as "Prairie View");
 - B. Prairie View is intended to be a retirement community consisting of single-family homes. At least one Owner (as defined in Section 1.5.29) of each Family Residential Unit (as defined in Section 1.5.21) is expected to have reached a minimum of fifty-five (55) years of age prior to obtaining title to a Family Residential Unit in Prairie View, unless granted an exception as specified in Section 1.5.29(a).
 - C. The Declarant shall offer for sale only Family Residential Units (as defined below), not Units (as defined below) that are undeveloped.
 - D. The Declarant desires to subject Prairie View to the covenants, conditions, restrictions and easements set forth herein.
 - E. Declarant desires to submit Prairie View and other structures and improvements now or hereafter located on Prairie View as provided for by the Statutes.
 - F. Every Owner within Prairie View shall automatically be a member of the Prairie View Owners Association.

G. Declarant has caused the Prairie View Owners Association, Inc., a nonprofit corporation (the "Association" or "Prairie View Owners Association"), to be incorporated under the laws of the State of Oklahoma for the purpose of exercising the functions to be exercised by the Association as set forth in this Declaration.

ARTICLE 1 SUBMISSION OF PRAIRIE VIEW, NUMBER OF UNITS IN ASSOCIATION, AND DEFINED TERMS

Niew, hereby submits Prairie View, together with all appurtenant rights and easements and the buildings and improvements constructed or to be constructed thereon, together with such additional real property as may now or hereafter be made subject to this Declaration, to the terms and provisions of this Declaration, as the same may be amended from time to time. Declarant further declares that all of Prairie View shall be held, sold, and conveyed subject to the easements set forth and established on the Subdivision Map, and the following easements, covenants, conditions and restrictions, which are for the purpose of protecting the value and desirability of, and which shall run with the land and shall be binding on all parties having any right, title or interest in Prairie View or any part thereof, and their respective heirs, legal representatives, successors, and assigns, and shall inure to the benefit of each Owner.

The Declarant hereby grants to the Association and to the Owners within the Prairie View community the right to use and enjoy the Common Elements and Common Areas located within Prairie View, subject to the conditions, covenants and restrictions contained in this Declaration and as set forth on the Subdivision Map. The Association's rights of use to the Common Elements and Common Areas shall be exercised in a consistent and non-discriminatory marrier, and at all times in accordance with the conditions, covenants and limitations contained in this Declaration.

- 1.2 <u>Number of Units</u>. The number of Units initially included in the Prairie View community is one hundred twenty-three (123). The initial Units are depicted on the Map and legally described as Lots on the Subdivision Map. Declarant reserves the right to add up to the maximum number of Units allowed by any governmental entity having jurisdiction over Prairie View.
- 1.3 <u>Lot Boundaries</u>. The Lot boundaries and dimensions are depicted and legally described on the Subdivision Map.
- 1.4 <u>Acknowledgement of Declaration and the Association</u>. Declarant and Prairie View Owners Association hereby acknowledge and affirm that Prairie View is subject to the covenants, conditions, restrictions and easements contained in this Declaration.
- Association and to the Owners within the Prairie View community the right to use and enjoy the Common Elements and Common Areas located within Prairie View, subject to the conditions, covenants and restrictions contained in this Declaration. The Association's rights of use to the Common Elements and Common Areas shall be exercised in a consistent and non-discriminatory

manner, and at all times in accordance with the conditions, covenants and limitations contained in this Declaration.

- 1.5 <u>Definitions</u>. To the extent not inconsistent with the definitions contained herein, the definitions contained in Section 60-851, et seq., of the Statutes are incorporated herein by reference. In the case of any inconsistency, to the extent permitted by law, the definition provided in this Declaration shall control.
- 1.5.1. Allocated Interests. The Common Expense liability and votes in the Prairie View Owners Association allocated to each Family Residential Unit pursuant to the terms of this Declaration.
- 1.5.2. Certificate of Incorporation. The Certificate of Incorporation for Prairie View Owners Association, Inc., an Oklahoma nonprofit corporation, as the same may be amended from time to time.
- 1.5.3. Assessments. Collectively any Common Expense Assessments, any Special Assessments, Default Assessments, assessments for reserves, assessments by class of owners, assessments related to insurance assessments, and any other assessment made to accomplish the purposes set forth in this Declaration to establish an exceptional, pleasant and desirable environment for the Prairie View residents.
- 1.5.4. Association. The Prairie View Owners Association, Inc., an Oklahorna non-profit corporation.
- 1.5.5. Association Covenants. Collectively, all agreements, restrictions, reservations, conditions, terms, easements, and rights-of-way set forth or referenced in the Prairie View Declaration or otherwise set forth in the Association Governing Documents, as the same may be adopted and amended from time to time or as may be promulgated by the Association or the Executive Board from time to time.
- 1.5.6. Association Landscape Requirements. Collectively, the Prairie View Landscape Design and Review Requirements and the City of Bartlesville's Design Standards for Prairie View, as they may be amended from time to time.
- 1.5.7. Association Rules and Regulations. Collectively, all rules, regulations, policies, procedures and guidelines of the Prairie View Owners Association, as any of said items may be adopted and amended from time to time by the Association's Executive Board pursuant to the Declaration, the Association Certificate of Incorporation and the Association Bylaws.
- 1.5.8. Bylaws. The bylaws of the Prairie View Owners Association, Inc., as the same may be amended from time to time.
- 1.5.9. Common Areas. All real and personal property owned or leased by the Association, which shall be designated as Common Elements, together with those additional areas, if any, within Prairie View in which the Association otherwise holds possessory or use rights for the common use and enjoyment of the Owners.

- 1.5.10. Common Elements. All real and personal property within Prairie View which the Association owns or leases for the common use and enjoyment of the Owners, including the General Common Elements described as follows:
- (a) General Common Elements. All real and personal property within Prairie View which the Association owns or leases. The General Common Elements in that portion of Prairie View are comprised of the streets therein; the common area identified on the plat between lots 11 and 12, block 1; and the common area identified on the plat between lots 4 and 5, block 4; provided that all common areas shall be subject to such rules and regulations as the Association may adopt and amend from time to time, pursuant to paragraph 1.5.7, herein.
- 1.5.11. Common Expense Assessments. All assessments made by the Association to the Owners, whether Improved or Unimproved as further described herein below, for the Prairie View Common Expenses, which shall include, without limitation, the following items levied against a particular Owner of a Family Residential Unit:
 - (a) each Owner's allocated share of the Common Expenses,
 - (b) each Owner's share of any Special Assessments; and
- (c) each Owner's share of any established reserve or surplus fund for insurance deductibles and general routine maintenance and repairs of the Common Elements, the Common Areas and the Improvements to the Units that the Association will install or maintain in accordance with this Declaration.
- 1.5.12. Common Expenses. All expenditures made and all liabilities incurred by or on behalf of the Association to fulfill the obligations contained in this Declaration, together with any allocation to reserves. Default Assessments shall not be deemed to be Common Expenses for purposes of this Declaration. Common Expenses shall include, without limitation, the following:
- (a) All expenses expressly declared to be Common Expenses by this Declaration or the Governing Documents;
- (b) All other expenses of administering, servicing, conserving, managing, securing, maintaining, cleaning, repairing or replacing the Common Elements, or to the extent provided for herein any Common Areas, as may be approved by the Declarant or the Executive Board;
- (c) The expenses of administering, servicing, conserving, managing, securing, maintaining, cleaning, repairing or replacing Improvements to: the Units installed or maintained by the Association; all Streets in Prairie View; and the areas where any community buildings are located.
- (d) Snow removal for the Common Elements, Common Areas and Units, at such times, and triggered by such minimum snow fall amounts, as the Executive Board may reasonably determine;

- (e) The expenses of lawn care and such Landscaping (defined in paragraph 1.5.27, below) for the Common Elements, Common Areas and Units as the Association determines it shall maintain in accordance with the terms of paragraph 1.5.27;
 - (f) Insurance premiums for the insurance carried under Article 12;
- (g) Legal fees, accounting fees and management fees for the Association as provided for herein;
- (h) The creation of a reasonable and adequate contingency or other reserve or surplus fund for insurance deductibles and general routine maintenance, repairs and replacement of Improvements within the General Common Elements on a periodic basis, as needed; and
- (i) All expenses lawfully determined to be Common Expenses by the Declarant or the Executive Board or which are required to fulfill the Association's obligations hereunder.
- 1.5.13. Covenants. All agreements, restrictions, reservations, conditions, terms, easements, and rights-of-way set forth or referenced in this Declaration as it may be amended from time to time, or in the Association Governing Documents or in any other related agreement or document provided to Prairie View residents governing the ownership, occupancy, use or enjoyment of Units within Prairie View.
- 1.5.14. **Declarant.** Declarant shall mean PVC, and any Person or group of Persons that succeeds to all or any portion of the PVC's rights, or of any successor to Declarant duly designated in accordance with this definition.
- 1.5.15. **Default Assessments.** Collectively, (i) all late charges, fines, and default interest, at a rate or in an amount determined by the Executive Board, and all costs and attorneys fees charged by the Association against an Owner who fails to pay his or her share of the Common Expenses in a timely manner; and (ii) all charges imposed against a particular Owner and his or her Family Residential Unit for the purpose of reimbursing the Association for expenditures and other costs of the Association in curing any Owner's or Related User's violation of the Governing Documents.
- 1.5.16. **Design Guidelines**. Collectively, all written design and development guidelines, policies, application and review procedures and fee schedules, and all architectural controls which apply to all construction and other improvement activities within Prairie View. Design Guidelines may be enacted by the Design Review Committee in accordance with this Declaration. Prairie View shall be governed by both the Prairie View Design Guidelines and the Association Design Guidelines as they may be periodically revised or amended.
- 1.5.17. **Design Review Committee**. The Committee created by the Declarant for the purpose of establishing architectural control over Prairie View to insure the proper, appropriate and harmonious development and improvement of Prairie View, including the enforcement of the Design Guidelines, Owner's maintenance responsibilities and other provisions of the Governing Documents.

- 1.5.18. **Districts**. Any other metropolitan, special improvement or other type of special district organized for the purpose of serving the needs of all or any portion of Prairie View.
- 1.5.19. Easements. Those easements encumbering the Units and the General Common Elements as depicted as Easements on the Map and legally described on the Plat.
- 1.5.20. Executive Board. The board of directors of the Prairie View Owners Association, as the same may be constituted from time to time in accordance with this Declaration, the Certificate of Incorporation and the Bylaws.
- 1.5.21. Family Residential Unit. A Unit upon which a home has been placed and a certificate of occupancy issued, which is intended to be owned and occupied by a single family.
- 1.5.22. First Mortgage. A mortgage or deed of trust, or any other form of security instrument affecting title to a Family Residential Unit, which is subject only to governmental liens, the lien for real property taxes, and any other liens made senior to such First Mortgage by Oklahoma law.
- 1.5.23. First Mortgagee. A bank, savings and loan association, insurance company, real estate mortgage investment trust, pension fund, mortgage banker, agency of the United States Government; the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") or any other Person, including without limitation Declarant or any affiliate of Declarant, which holds a First Mortgage.
- 1.5.24. Governing Documents. The documents which govern the operation of the Association, as applicable, including without limitation the following documents: (a) the Certificate of Incorporation; (b) the Bylaws; (c) the Rules and Regulations; (d) the Design Guidelines; (e) the Plats; (f) this Declaration; and (g) any other documents adopted by the Association to govern the affairs of the Association, as any of the foregoing may be amended from time to time. Each and every provision of the Association Governing Documents shall be given the force and effect as if set forth in this Declaration. If there is any inconsistency between the provisions of this Declaration and the provisions of any of the other Association Governing Documents, the most restrictive provision shall control.
- improvements located upon or made to a Unit and any appurtenances thereto of every type or kind, including, but not limited to, buildings, spas, patio covers, awnings, roofing, mail boxes, satellite dishes, additions, walkways, outdoor sculptures or artwork, children's playground equipment, garages, carports, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, fixtures, windbreaks, poles, signs, exterior tanks, solar equipment, exterior air conditioning and water softener fixtures, but excluding Landscaping, as herein defined. Structural Improvements shall mean the construction of any permanent structure or any change or modification to a structure constructed on a Unit as such improvements may be more specifically defined in the Design Guidelines. Nonstructural Improvements shall be all other

improvements to a Unit as such improvements may be more specifically defined in the Design. Guidelines.

- 1.5.26. Landscape Requirements. Collectively the Association Landscape Requirements together with the Landscaping standards adopted by the Executive Board or the Design Review Committee to apply to Prairie View.
- 1.5.27. Landscaping. Landscaping shall mean all landscape improvements made within Prairie View. The Association shall be responsible for all Landscaping within Prairie View, except as otherwise specifically provided in this Declaration. All Landscaping shall conform to the Landscaping Requirements.
- within the Common Elements, including without limitation irrigation and sprinkler systems trees, hedges, plantings, shrubs, sod or grass, or landscape bark or rock which the Executive Board or the Design Review Committee determines are desirable or necessary to complement or enhance the neighborhood or character of Prairie View, and any landscaping improvements made by the Association to the Association Common Areas which are adjacent to Prairie View.
- (b) Unit Landscaping. Unit Landscaping shall mean all landscape improvements made for any Unit located within the boundaries of Prairie View, including without limitation irrigation and sprinkler systems, trees, hedges, plantings, shrubs, sod or grass. landscape bark or rock and ornamental paths and walkways.
- 1.5.28. Map. Map shall mean the map depicting the Units and the Common. Elements in Prairie View, as recorded contemporaneously with this Declaration in the real property records of Washington County, Oklahoma, as the Map may be amended from time to time.
- 1.5.29. Owner. Owner means all persons who hold title in fee simple to one or more of the Family Residential Units within Prairie View. Where more than one Owner owns a Family Residential Unit, at least one of the Owners must be over the age of fifty-five (55) years Declarant qualifies as an Owner for so long as Declarant owns any of the Units or Family Residential Units in Prairie View.
- Directors, to permit new ownership of a Family Residential Unit within Prairie View by an Owner or Owners who are under the age of fifty-five (55). However, in no case may the Executive Board permit ownership by persons under the age of fifty-five if, upon granting such an exception, Prairie View would be prevented from qualifying as a community for persons over age fifty-five (55) under applicable state or federal laws, particularly Section 3607 of the federal Fair Housing Act, 42 U.S.C. § 3607, as it may be amended from time to time. This subsection 1.5.29(a) does not apply to ownership situations that are subject to section 1.5.29(b).
- (b) Where more than one Owner owns a Family Residential Unit and such ownership was originally obtained in conformity with this Declaration, the termination of any one owner's interest in the Family Residential Unit, especially, but not exclusively, if by death or divorce, shall not cause the interests held by the other Owner(s) to be terminated solely

because the other Owner(s) are not over the age of fifty-five (55), even if the age-related provisions of this Declaration would otherwise preclude ownership by a person under age fifty-five (55).

- 1.5.30. Plat. Shall mean the Plat of Prairie View Addition, recorded On 15.30. at Reception No. 2005007907, in the real property records of Washington County, Oklahoma.
- 1.5.31. Related User. Related User means all persons related to the Owner by blood or marriage.
- 1.5.32. Rules and Regulations. Collectively, all rules, regulations, policies, procedures and guidelines of the Association, as any of said items may be adopted and amended from time to time pursuant to the applicable Governing Documents. The Rules and Regulations for the Association shall apply to the ownership and operation of Prairie View.
- 1.5.33. Special Assessments. Assessments imposed by the Association in accordance with Section 7.6 below.
- 1.5.34. Turnover Date. The earliest to occur of the following: (i) the date that is sixty (60) days after the date that seventy-five percent (75%) of the maximum number of Family Residential Units that may be created within Prairie View have been conveyed to Owners other than Declarant; or (ii) the date that is two (2) years after the last conveyance of a Family Residential Unit by the Declarant in the ordinary course of business; or (iii) two (2) years after any right to add new Units was last exercised.
- 1.5.35. Unit. Unit shall mean a physical portion of Prairie View which is designated for development into a Family Residential Unit and, after such development, for separate ownership or occupancy by an Owner, the boundaries of which are depicted on the Mar and legally described by lot and block as follows:

Lot _____, Block _____, Prairie View Addition to the City of Bartlesville, Washington County, Oklahoma.

ARTICLE 2 GENERAL STATEMENT OF COVENANTS

- 2.1 <u>Covenants Bind Prairie View</u>. Prairie View shall be held, sold, and conveyed subject to the Declaration for the purpose of protecting the value and desirability of Prairie View and any other purposes incidental thereto, and the Declaration shall run with the land and shall be binding on all parties having any right, title or interest in Prairie View or any part thereof from time to time, and shall inure to the benefit of each Owner thereof and each Owner's heirs personal representatives, successors and assigns, and to the Association.
- 2.2 Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Elements and the Common Areas, subject to the restrictions imposed in the Declaration and the following rights of the Association:

- 2.2.1. Any restriction or limitations contained in the Governing Documents;
- 2.2.2. Any restrictions or limitations contained in any deed conveying Common Elements to the Association;
- 2.2.3. Any restrictions or limitations imposed by the City of Bartlesville or the Districts, or any one of them, to the extent that the Common Area(s) in question are owned, operated and/or maintained by the City of Bartlesville or such District(s);
- 2.2.4. The right of the Association to exercise all powers and duties pursuant to Article 5 below and pursuant to any other applicable provisions of the Governing Documents;
- 2.2.5. The right of the Executive Board to adopt and amend, from time to time, Rules and Regulations concerning all or any portion of Prairie View and any Improvements located thereon, as the Association may determine are necessary or prudent;
- 2.2.6. The right of the Association to enter into and execute contracts with any party for the purpose of providing management, maintenance or other services for the Common Areas or otherwise governing their use and operation;
- 2.2.7. The right of the Association to grant permits, licenses and easements over the Common Areas for utilities, roads, and other purposes deemed appropriate by the Executive Board;
- 2.2.8. Subject to the Statutes, the right of the Association to dedicate or transfer all or any part of the Common Areas;
- 2.2.9. The right of the Association to mortgage or otherwise encumber any or all of the real or personal property owned by it as security for money borrowed or debts incurred, subject to the approval requirements set forth below and in the Statutes; and
- 2.2.10. The right of the Association to close or limit the use of the Common Areas while maintaining, repairing and making replacements to the same, or for such other purpose or purposes as the Association may deem appropriate.
- 2.3 <u>Authorized Users</u>. The Common Areas may be used and enjoyed by each Owner and each Owner's Related Users or each Owner's Guests, provided that those Guests and Related Users are under the supervision of the Owner at all times, and by residents of the Prairie View community in accordance with the terms, conditions and restrictions contained herein and in the Declaration.

ARTICLE 3 COMMON ELEMENTS AND COMMON AREAS

3.1 <u>Description of Common Elements and Areas</u>. The Common Elements are shown as "Tracts" on the Plats and Maps relating to Prairie View. Any Common Area dedicated to or maintained by the City of Bartlesville or any District shall be shown as a "Common Area Tract" on the Maps relating to Prairie View. Any declaration of annexation or amendment to this

Declaration pursuant to which any additional property is made a part of Prairie View in accordance with Article 14 below shall identify the Common Elements and the Common Areas to be located therein.

3.2 Maintenance of Common Elements and Common Areas. The Association shall be responsible for the maintenance, repair, replacement, operation, management and control of all Common Areas including all Common Elements that are not operated and maintained by one or more of the Districts. The Association shall not be responsible for the maintenance, repair, replacement, operation, management or control of those Common Areas for which one or more of the Districts provides such services. The Association may from time to time determine that the responsible District is not maintaining Common Areas in the condition contemplated by this Declaration or any of the Governing Documents. If the Association determines that a Common Area which is adjacent to or within Prairie View is not being adequately maintained by one or more of the Districts charged with such responsibility, the Association may undertake such maintenance, repair, replacement, operation or management to ensure that these Improvements meet the standards provided for in this Declaration and in the Design Guidelines, and the costs associated therewith shall be borne by the members of the Association as a Common Expense.

ARTICLE 4 OPERATION OF THE ASSOCIATION

- 4.1 Formation and Declarant Control. The Association has been formed as an Oklahoma non-profit corporation. The Association shall have the duties, powers and rights set forth in this Declaration, the Certificate of Incorporation, the Bylaws and the other Governing Documents. The Executive Board shall manage the Association's affairs. Subject to the provisions of the Statutes, the Declarant shall have the right to appoint and to remove a majority of the Directors of the Executive Board; provided, however, that:
- 4.1.1. After Declarant conveys, to Owners other than Declarant, twenty-five percent (25%) of the Family Residential Units that may be created, then, within sixty (60) days of that conveyance, an Executive Board election shall be held and the Family Residential Unit Owners other than the Declarant shall collectively elect one (1) Director of the Executive Board, such that the total number of Directors on the Executive Board shall be at least three (3) Directors;
- 4.1.2. After Declarant conveys, to Owners other than Declarant, fifty percent (50%) of the Family Residential Units that may be created, then, within sixty (60) days of that conveyance, an Executive Board election shall be held and the Family Residential Unit Owners other than the Declarant shall collectively either: (1) elect one Director of the Executive Board if the Executive Board is to consist of a total of exactly three Directors; or (2) elect two Directors of the Executive Board if the Executive Board is to consist of a total of exactly five Directors; and,
- 4.1.3. After Declarant conveys, to Owners other than Declarant, one-hundred percent (100%) of the Family Residential Units that may be created, then, within sixty (60) days of that conveyance, an Executive Board election shall be held and the Family Residential Unit

Owners other than the Declarant shall collectively elect each and every one of the Directors of the Executive Board.

- Executive Board shall be fixed in the Certificate of Incorporation and Bylaws. The Executive Board may, by resolution, delegate portions of its authority to an executive committee or to other committees, to officers of the Association or to agents and employees of the Association, or to a manager or management company, provided, however, such delegation of authority shall not relieve the Executive Board of the ultimate responsibility for management of the affairs of the Association. The Executive Board may take actions by or on behalf of the Association or any duly authorized committee, officer, agent, employee or manager without a vote of the Owners, except as otherwise specifically provided in this Declaration.
- Membership in Association. Each Owner shall automatically be a member of the 4.3 Association. An Owner shall automatically be the holder of the membership appurtenant to such Owner's Family Residential Unit, and the membership shall automatically pass with the fee simple title to the Family Residential Unit. Declarant shall hold one membership in the Association for each Family Residential Unit owned by it. Membership in the Association shall not be assignable separate and apart from fee simple title to a Family Residential Unit, except that an Owner may assign, in a written, notarized document, some or all of the Owner's rights as an Owner and as a member of the Association to a Related User or First Mortgagee, and may arrange for a Related User to perform some or all of such Owner's obligations as provided in this Declaration, provided, however, no such delegation or assignment shall relieve an Owner from the responsibility for performing his or her obligations under this Declaration. The rights acquired by any such Related User or First Mortgagee shall be extinguished automatically upon termination of the Related User relationship or First Mortgage in question. An assignment of rights by an Owner pursuant to this Section 4.3 shall not be subject to any present or future statutory time limit for the duration of proxy rights.

ARTICLE 5 THE ASSOCIATION

- Board and any approved subcommittee of the Association, and except as otherwise provided by this Declaration or the Governing Documents, shall perform such functions and manage Prairie View as provided in this Declaration so as to further the interests of the Owners. The Association shall have all power necessary or desirable to effectuate its responsibilities in accordance with this Section 5.1, and in doing so shall act in a manner consistent with the Governing Documents. All Owners shall be deemed to have assented to, ratified and approved such designation of rights, duties, and authority.
- 5.2 <u>Powers and Duties</u>. The Association, acting in all instances by and through the Executive Board, unless specifically reserved to its Members, shall have the following specific powers and duties:

- 5.2.1. The Association shall have all of the powers, authority and duties permitted pursuant to the Oklahoma General Corporation Act, 18 Okla.St.Ann. §1001, et seq., as it is amended from time to time.
- 5.2.2. The Association shall have all of the powers, authority and duties necessary and proper to manage the business affairs of Prairie View, subject to the terms, requirements and limitations contained in the Statutes and the Governing Documents.
- 5.2.3. The Association shall have all of the powers, authority and duties necessary and proper to own, operate, manage, lease, encumber, maintain, repair, reconstruct, replace, improve, and otherwise deal with the Common Areas for which it is responsible, including the right to acquire additional Common Areas and to construct Improvements thereon, and the right to promulgate reasonable Rules and Regulations which do not conflict with any of the provisions of this Declaration or the other Governing Documents. The Association may adopt standards for the management and maintenance of the Common Areas that are more restrictive than the standards contained in the Governing Documents, including without limitation the Declaration. Any additional costs associated with maintaining and operating the Common Areas to the standards established by the Association shall be assessed as part of the Common Expenses for the Association.
- 5.2.4. The Association shall have all of the powers and authority necessary and proper to operate, manage, maintain, repair, reconstruct, replace, improve, and otherwise deal with Unit Landscaping and the specific Unit maintenance for which the Association has assumed responsibility under this Declaration, and the right to promulgate reasonable Rules and Regulations related to the Units which do not conflict with any of the provisions of this Declaration or the other Governing Documents.
- 5.2.5. The Association shall have the right to have access to the Common Areas and, to the extent necessary, to any adjacent Units to the extent necessary for the maintenance, repair or replacement of, or to prevent damage to, the Common Areas and Units.
- 5.2.6. Subject to the limitations contained in the Statutes, the Association may undertake any activity, function or service for the benefit of, or to further the interests of, the Owners.
- 5.2.7. The Association may engage any contractor approved by the Executive Board to perform the Association's duties hereunder, or a community association manager as more particularly provided in the Bylaws.
- 5.2.8. The Association may assign its future income, including its rights to receive Common Expense Assessments, upon the affirmative vote of a majority of the voting interests present at a meeting called for that purpose, in accordance with the Bylaws.
- 5.2.9. The Association shall enforce the requirements of the Design Guidelines and the Rules and Regulations as it deems necessary to ensure the proper use, development improvement, repair, maintenance and replacement of real and personal property within Prairie View, and, subject to the provisions of Article 8 below, to appoint persons to serve on the Design Review Committee.

- 5.3 Enforcement. The Association shall have the power to enforce the provisions and requirements of the Governing Documents, and to report to the Association, Executive Board or other appropriate entity any violation of the Declaration and/or the Association Governing Documents. The Association shall take such action as the Executive Board deems desirable to cause each Owner and each Related User to comply with the Prairie View Governing Documents and the Association Governing Documents by any of the following means:
- 5.3.1. By entry upon any Unit after notice and an opportunity to be heard (unless a bona fide emergency exists), without liability to the Owner thereof, for the purpose of inspection, enforcement or causing compliance, including by curing any such violation;
- 5.3.2. Subject to Section 5.9 below, by commencing and maintaining actions and suits: (i) to recover damages; or (ii) to restrain and enjoin any violation or threatened violation of, or compel compliance with, the provisions of the Governing Documents by mandatory injunction or otherwise;
- 5.3.3. By exclusion of any Owner or Related User from use of any Common Areas for a period of sixty (60) days following any violation, or so long as the violation continues, whichever is longer;
- 5.3.4. By suspension of the voting rights of an Owner for up to thirty (30) days following any violation, or so long as the violation continues, whichever is longer;
- 5.3.5. By suspension of the services the Association provides to any Owner to operate, manage, maintain, repair, reconstruct, replace, improve, and otherwise deal with Unit Landscaping, or Unit maintenance expressly assumed by the Association pursuant to the Governing Documents; and
- 5.3.6. By levying and collecting, after notice and an opportunity to be heard at the next scheduled or special meeting of the Association, fines against any Owner for violation by such Owner or a Related User, as a Default Assessment to be secured by a continuing lien from the date it is levied, and by foreclosure of such lien.
- 5.4 <u>Association Agreements</u>. The Association shall have the power to execute any agreement for professional maintenance or management of all or any portion of Prairie View, or any contract with the Declarant to provide such services. Any such agreement shall provide for termination by either party without cause and without payment of a termination fee or a penalty upon not more than thirty (30) days written notice.
- Directors of the Executive Board of the Association shall be indemnified by the Association against all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon them in any proceeding to which they may be parties, or in which they may become involved, by reason of being or having been an officer or Director of the Executive Board of the Association, or any settlements thereof, whether or not they are officers or Directors of the Executive Board of the Association at the time such expenses are incurred. Such indemnification shall not apply, however, to any officer or Executive Board Director that is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties in

connection with the particular case or controversy. In the case of a settlement, the foregoing indemnification shall apply only if the Executive Board approves the settlement and reimbursement as being in the best interests of the Association.

- 5.6 Governmental Interests. Declarant has reserved the right to designate portions of Prairie View for fire, police, water, drainage, utility facilities, parks, and other public facilities, as provided below and subject to the provisions of the Statutes. These sites may include Common Areas, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site if so directed by Declarant. The sites may include other property not owned by the Declarant, provided the owner consents thereto.
- 5.7 Right to Notice and Comment. Before the Executive Board amends the Bylaws, or whenever the Governing Documents require that an action be taken after "notice and comment," and at any other time the Executive Board determines, the Owner or Owners affected by the action in question shall have the right to receive written notice of the proposed action and the right to comment orally or in writing. Notice shall be given to each affected Owner in writing, delivered either personally or by mail to their respective addresses as they appear in the records of the Association, and additional notice may be provided in a newsletter or similar publication which is routinely circulated to all Owners. Any required notice shall be given not less than five days before the proposed action is to be taken. The Notice shall invite comment to the Executive Board, orally or in writing, before the scheduled time of any meeting.
- 5.8 <u>Disclaimer Regarding Security</u>. The Association may, but shall not be obligated to, maintain or support certain activities within Prairie View that are designed to make occupancy of Prairie View more secure than it otherwise might be. Neither the Association nor Declarant shall in any way be considered insurers or guarantors of security within Prairie View, nor shall any of them be held liable for any loss or damage by reason of failure to provide security or by reason of the ineffectiveness of any security measures that might be undertaken. No representation or warranty is made that any fire protection system, burglar alarm system or other security system cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in any case prevent loss or provide the detection or protection for which the system is designed or intended. Further, each Owner and Related User, and every other Person entering upon Prairie View, expressly agrees that he, she or it assumes all risks of loss or damage to persons and to property resulting from the acts or omissions of third parties. Each Owner acknowledges, understands and covenants to inform all Related Users of the terms of this Section 5.8.

5.9 <u>Compliance with Declaration</u>.

5.9.1. Each Owner shall comply strictly with, and shall cause each of such Owner's Related Users to comply strictly with, all of the provisions of this Declaration, the Certificate of Incorporation, the Bylaws, and the other Governing Documents. Failure to comply with any of the same shall be grounds for an action or actions to recover sums due, for damages and/or for injunctive relief, along with costs of suit and reasonable attorneys' fees, maintainable by the Executive Board in the name of the Association on behalf of the Owners, or, if authorized in advance by the Executive Board as described below, by an aggrieved Owner.

- 5.9.2. In all instances of noncompliance any action against an Owner for failure to comply with the Governing Documents shall be initiated by the Association through the Executive Board. In no event shall an individual Owner have the right to initiate an action for violation of the Governing Documents unless the Owner obtains the prior written consent of the Executive Board.
- 5.9.3. Any failure to comply with the terms of this Declaration or the Governing Documents may result in the imposition of a Default Assessment.
- 5.10 No Right of Action Against the Association or Board. No person shall obtain by virtue of this Declaration any right or cause of action against the Association or the Executive Board or its management arising as a result of the enforcement or lack of enforcement of this Declaration.

ARTICLE 6 UNIT MAINTENANCE RESPONSIBILITIES

6.1 Owner's Responsibility.

- 6.1.1. Structural Maintenance. Each Owner shall be responsible for maintaining all Structural Improvements constructed on his or her Family Residential Unit, including, without limitation, all buildings (including the exterior façade thereof), spas, patio covers, awnings, roofing, garages, stairs, decks and fixtures. The Structural Improvements shall be maintained in accordance with the Design Guidelines and the Standards of Performance set forth in Section 6.3 below.
- Owner Installed Landscaping. Subject to Design Review Committee 6.1.2. approval, any Owner may design, install and maintain such additional Landscaping within the boundaries of the Owner's Unit as may be deemed appropriate by the Design Review Committee. Any Landscaping exceeding the Landscaping to be installed and maintained by the Association shall be installed and maintained by the Owner at the Owner's sole cost and expense, or at the option of the Executive Board, shall be installed and/or maintained by the Association with the cost thereof paid by the Owner as a supplemental Common Expense Assessment against the Owner's Unit. Any Owner-installed and Owner-maintained Landscaping shall meet or exceed the standards set forth in the Landscaping Requirements. Prior to installation of any Owner-installed Landscaping, the Owner shall provide the Design Review Committee with a full set of plans describing in detail the proposed Owner installed landscaping (the "Landscaping Detail"). The Design Review Committee shall review the Landscaping Detail and advise the Owner of its acceptability within thirty (30) days of receipt of the complete Landscaping Detail. A Landscaping Detail submittal shall be deemed approved unless the Design Review Committee notifies the Applicant of disapproval or provides the Applicant with a request for additional information or materials within thirty (30) days after the date that the Design Review Committee received the complete Landscaping Detail. The Design Review Committee's review and approval of a Landscaping Detail shall be in addition to, and not in lieu of, the Association's review and approval of same.

- 6.2 General Unit Improvements and Maintenance. The Association shall be responsible for the design, installation and maintenance of certain additional Nonstructural Improvements which shall be further defined in the Design Review Guidelines, which may, at the Association's discretion, include some or all of the following:
- 6.2.1. Constructing, installing and maintaining any approved fencing within Prairie View's Common Areas and Common Elements;
- 6.2.2. Removing snow from the Common Elements, and Units and from any Common Areas to the extent snow removal services are not provided by the City of Bartlesville or one of the Districts;
- 6.2.3. Clean-up and removal of trees, branches or other debris deposited on Prairie View as a result of a storm; and
 - 6.2.4. Periodic clean up and removal of leaves and debris on a seasonal basis.
- other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the quality standards from time to time existing within the Prairie View community, and the Governing Documents. Neither the Association nor any Owner shall be liable for any damage or injury occurring on, or arising our of the condition of property which it does not own, except to the extent that the Owner or the Owner's Related Users have been negligent in the performance of their maintenance responsibilities.

ARTICLE 7 COVENANT FOR COMMON EXPENSE ASSESSMENT

Creation of Association Lien and Personal Obligation To Pay Common Expense Assessments. Declarant and each Owner of a Family Residential Unit, by acceptance of a deed or other document conveying an interest in a Family Residential Unit, shall be deemed to have covenanted and agreed to pay to the Association the Common Expense Assessments, including without limitation Special Assessments, assessments for reserves and the Default Assessments as may be imposed by the Association pursuant to the Governing Documents, irrespective of whether such covenant shall have been set forth in any such deed or other conveyance. Such Assessments, including fees, charges, late charges, attorneys' fees, fines and interest charged by the Association, shall be the personal obligation of the Owner of the Family Residential Unit at the time when the Assessment or other charges become due. The Common Expense Assessments and Default Assessments imposed by the Association, including fees, charges, late charges, attorneys' fees, fines and interest charged by the Association, shall be a charge on each Family Residential Unit and shall be a continuing lien upon such Family Residential Unit against which each such Assessment or charge is made. The personal obligation to pay any past due sums shall pass to a successor in title (other than a First Mortgagee acquiring a Family Residential Unit as a result of foreclosure or proceedings in lieu of foreclosure), unless otherwise expressly agreed by the Association. All Assessments shall be payable in the amounts specified

in the levy thereof, and no offsets from or reduction of such Assessments shall be permitted for any reason including, without limitation, any claim that the Association or the Executive Board is not properly exercising its duties and powers under this Declaration.

- 7.2 <u>Apportionment of Common Expenses</u>. All Common Expense Assessments shall be assessed against all Family Residential Units in accordance with the allocated interest formula set forth in Article 16, except as provided below and elsewhere in this Declaration:
- 7.2.1. Any expenses incurred for services provided by the Association to an individual Family Residential Unit at the request of the Owner of an individual Family Residential Unit may be assessed exclusively against that Family Residential Unit as a supplemental Common Expense Assessment if such services are not included as part of the service package provided by the Association under this Declaration;
- 7.2.2. If any costs or expenses are incurred by the Association due to the misconduct of an Owner or an Owner's Related Users, the Association may assess that expense exclusively against the Owner and that Family Residential Unit as a Default Assessment; and
- 7.2.3. Fees, charges, taxes, impositions, late charges, fines, collection costs and interest charged against an Owner are enforceable as Default Assessments against the Family Residential Unit of such Owner.
- 7.3 <u>Purpose of Assessments</u>. All Common Expense Assessments shall be used for the purposes of promoting the health, safety, and welfare of the Owners, and in particular for the following purposes:
- 7.3.1. To provide the services necessary to maintain Prairie View in the superior condition contemplated in this Declaration and the Governing Documents;
 - 7.3.2. To enforce the provisions of the Governing Documents;
- 7.3.3. To exercise all rights and powers and to discharge all duties and obligations pursuant to the Governing Documents; and
- 7.3.4. To fund any operating deficits or reserves the Association deems necessary to meet its financial obligations.
- 7.4 Annual Assessment/Commencement of Common Expense Assessments. The Common Expense Assessment shall be made on an annual basis against all Family Residential Units and shall be payable as determined by the Executive Board. The Common Expense Assessment shall be based upon the Association's advance budget of the cash requirements estimated by the Association to be required to provide for the administration and performance of its duties during the Assessment year in question. Common Expense Assessments shall be due and payable on a monthly basis, due on the first (1st) day of each month and delinquent after the fifth (5th) day of each month, or in such other manner as may be determined by the Executive Board. The Common Expense Assessments will begin on the first (1st) day of the calendar month following the calendar month in which the conveyance of the first Family Residential Unit to a person other than Declarant occurs, or at such later date as Declarant determines. The

omission or failure of the Executive Board to levy the Assessment for any period shall not be deemed a waiver, modification or a release of the Owners from their obligation to pay the same when and as assessed.

- Lien Priority. The lien of the Association under this Section shall be prior to all other liens and encumbrances on a Family Residential Unit except: (1) liens and encumbrances recorded before the recordation of this Declaration (2) a First Mortgage on the Family Residential Unit (except as allowed by the Statutes with regard to the limited lien priority allowed to the Association); and (3) liens for real estate taxes and other governmental assessments or charges against the Family Residential Unit by the State of Oklahoma. Washington County, the City of Bartlesville or any political subdivision of any such governmental authority. This Section does not affect the priority of mechanics or materialmens' liens. The lien of the Association under this Article is not subject to the provisions of any homestead exemption allowed by state or federal law, and all such homestead exemptions shall be deemed waived by an Owner upon such Owner's acceptance of a deed or other conveyance of fee title to such Owner's Family Residential Unit. Sale or transfer of any Family Residential Unit shall not affect the lien for said Assessments, except that the transfer of any Family Residential Unit as a result of the foreclosure of any First Mortgage, or any proceeding in lieu thereof, shall extinguish the Assessment lien as to any amounts that were due and payable prior to the effective date of transfer resulting from such foreclosure or deed in lieu thereof. No transfer resulting from any such foreclosure or proceeding in lieu thereof, however, will relieve the prior Owner from personal liability therefor, or relieve the Family Residential Unit from continuing liability for any Assessments thereafter becoming due, nor from the lien thereof.
- 7.6 Special Assessments. The Executive Board may at any time and from time to time, determine, levy and assess a Special Assessment applicable to that particular assessment year for the purpose of defraying, in whole or in part, payments for any operating deficit and/or unbudgeted costs, fees and expenses of any construction, reconstruction, repair, demolition, replacement or maintenance of a capital improvement and any fixtures or personal property related thereto, any acquisition of real property, and to fund, on an interim basis, any expenses incurred in pursuit of the actions described in Section 7.2 above and Section 7.7 below. Any such Special Assessment shall be due and payable as determined by the Executive Board. The term "capital improvements" as used herein shall mean the acquisition, improvement, development, maintenance, repair or replacement of Common Areas or the improvement, development, maintenance or repair of the Landscaping of any Unit determined by the Executive Board, upon the advise of the Design Review Committee, as necessary to maintain the superior condition of Prairie View, or the improvement, development, maintenance, repair or replacement of advertisements pertaining to Prairie View even if they are placed on leased property, in the printed media or broadcast over the airwaves or any other electronic media.
- 7.7 Effect of Non-Payment of Assessments. Any Assessment provided for in this Declaration, or any installment thereof, which is not fully paid within five (5) days after the due date thereof, shall bear interest from the due date at the rate established by 14A Okla.St.Ann. §3-508A, as it may be amended from time to time, or at such lesser rate as may be set by the Executive Board from time to time, and the Association may assess a monthly late charge thereon as determined by the Executive Board. Failure to make payment within thirty (30) days of the due date thereof shall cause the total amount of such Assessment for the remainder of that

fiscal year to become immediately due and payable at the option of the Executive Board, and, in addition, the Executive Board may turn off utility service to a Unit if the Owner of the Unit is more than thirty (30) days delinquent in payment of Assessments for such utilities. Further, the Association may bring an action at law or in equity, or both, against any Owner personally obligated to pay such overdue Assessments, or monthly or other installments thereof, and the Association may also proceed to foreclose its lien against such Owner's Family Residential Unit. An action at law or in equity by the Association against an Owner to recover a money judgment for unpaid Assessments, or any monthly or other installment thereof, and for any Default Assessments may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien therefor. The Association's costs of suit, expenses and reasonable attorneys' fees incurred by virtue of the failure of an Owner to timely pay Assessments when due, including attorneys' fees and costs for preparing and recording any lien notice, and the Association's costs of suit, expenses and reasonable attorneys' fees incurred for any such action and/or foreclosure proceedings, shall be taxed by the court as a part of the costs of any such action or foreclosure proceeding, and shall be recoverable by the Association as a Default Assessment from any Owner personally obligated to pay the same and from the proceeds of the foreclosure sale of such Owner's Family Residential Unit. Foreclosure or attempted foreclosure by the Association of its lien shall not be deemed to stop or otherwise preclude the Association from thereafter again foreclosing or attempting to foreclose its lien for any subsequent Assessments, or monthly or other installments thereof, which are not fully paid when due. The Association shall have the power and right to bid on or purchase any Family Residential Unit at foreclosure or other legal sale, and to acquire and hold, lease, mortgage and convey or otherwise deal with the same. If the Association files a foreclosure action to foreclose any Assessment lien, and a Family Residential Unit Owner abandons or leaves vacant his or her Family Residential Unit for minimum of 30 days, the Executive Board may, without prior notice to the Family Residential Unit Owner, take possession and rent said Family Residential Unit or apply for the appointment of a receiver for the Family Residential Unit, subject to the rights of any prior lien claimant, unless, prior to rendering the Family Residential Unit as vacant: (1) the Owner has notified the Executive Board in writing that the vacancy will be temporary; and (2) that Owner continues to satisfy its obligations to the Association during the entire period of such temporary vacancy. The grantee of a Family Residential Unit shall be jointly and severally liable with the grantor for all unpaid Assessments against the Family Residential Unit that accrued prior to the conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor.

- 7.8 No Waiver or Abandonment. No Owner may be exempt from liability for payment of the Common Expenses by waiver of the use or enjoyment of any of the Common Areas or by abandonment of the Family Residential Unit against which the Assessments are made.
- 7.9 <u>Declaration is Notice</u>. Subject to the requirements contained in the Statutes, recording of this Declaration constitutes record notice and perfection of the Assessment lien. No further recordation is required. The Executive Board, at its discretion, may prepare and record in the real property records of Washington County, Oklahoma, a written notice setting forth the amount of any unpaid indebtedness, the name of the Owner, a description of the Family Residential Unit, and such other information, if any, as the Association may deem appropriate.

above, each Owner shall be obligated to pay real property taxes and special assessments imposed by Oklahoma governmental subdivisions against his or her Family Residential Unit(s), as well as all charges for separately metered utilities servicing the Family Residential Unit. Any utility charges which are not separately metered to an individual Family Residential Unit by the applicable utility company may be collected by the Association as part of the annual Assessments and shall be due and payable on a monthly basis in accordance with paragraph 7.4, above; however, the charges for such utilities shall be allocated among the Family Residential Units based on actual usage, as such is measured or determined by the Executive Board.

ARTICLE 8 DESIGN REVIEW

- 8.1 General. All Improvements to a Family Residential Unit shall be made in compliance with the architectural review procedures and restrictions set forth in the Declaration and the Design Guidelines. Improvements requiring review by the Association and the Design Review Committee shall include, without limitation:
- 8.1.1. The construction, installation, alteration, demolition in whole or in part, or expansion of any building, structure or other improvements, including utilities;
- 8.1.2. The staking, clearing, grading, excavation, filling or similar disturbance to the surface of the land, including without limitation any change of grade, change of ground level, change of drainage pattern, or change of stream bed or course;
- 8.1.3. All initial planting of and subsequent material modifications to Landscaping, and all planting, clearing or removing of trees, shrubs, grass or perennial plants, but in each instance excluding removal of dead or diseased plants and trees and excluding any replacement that is substantially similar to the item being replaced;
- 8.1.4. Any change or alteration to the exterior appearance of Improvements previously approved by the Design Review Committee, including any change in finish material, color or texture;
- 8.1.5. The repainting and resurfacing of exterior surfaces of structures, including roofing materials, gutters, downspouts, drainspouts, exterior siding or stucco finish, entry doors, windows, trim around doors and windows, surfaces of garage doors, external vents and flues and glass surfaces, exclusive of any replacement that is substantially identical to the item being repainted or resurfaced;
- 8.1.6. The choice of color of material used for any improvement that is covered by section 8.1.5.
- 8.1.7. <u>Reconstruction of structures</u>. Approval of the Design Review Committee shall not be required for any changes to the interior of any residence constructed on a Family Residential Unit.

- 8.2 <u>Modification after Occupancy</u>. Any Improvements proposed for construction after the issuance of a final Certificate of Occupancy for a Family Residential Unit shall be subject to review and approval by the Declarant until the Turnover Date, and thereafter by the Design Review Committee in accordance with the Design Guidelines. The Declarant, at its discretion, may delegate the review of any requested Family Residential Unit modifications to the Design Review Committee prior to the Turnover Date.
- 8.3 <u>Design Review Responsibility</u>. The administration of the Design Guidelines and the review of all applications for approval of modifications under this article and the Design Guidelines shall be the responsibility of the Design Review Committee. The Executive Board may establish and charge fees for review of applications hereunder, and may require such fees to be paid in full prior to review. Additionally, the Executive Board may provide for the employment of such professional consultants as it may deem appropriate to advise and assist the Design Review Committee. The Executive Board may also establish fines and other penalties for failure to comply with the provisions of this Article and the Design Guidelines.
- 8.4 <u>Design Review Committee</u>. The Design Review Committee shall consist of three (3) persons. Until the Turnover Date, or such earlier date as Declarant may elect in writing to relinquish such power, Declarant shall appoint all members of the Design Review Committee, and may remove and replace any such members as it deems appropriate. After expiration or termination of Declarant's appointment rights, the Design Review Committee shall be comprised of Owners without regard to special qualifications, and the members of the Design Review Committee shall then be appointed by the Executive Board. Until the Turnover Date, Declarant, in its sole discretion, may at any time grant all or any portion of its power to appoint the members of the Design Review Committee to any successor Declarant, or to the Association. From and after the Turnover Date, the terms of the members of the Design Review Committee shall be staggered, and shall terminate at different dates, so as to provide reasonable continuity to the design review process.
- Guidelines and Procedures General. Declarant shall prepare the initial Design 8.5 Guidelines, which thereafter may be amended in whole or in part by a majority of the Design Review Committee. For so long as Declarant owns any Units, any such amendment shall require the written approval of Declarant. Any amendments to the Design Guidelines shall apply to modifications commenced after the date of such amendment only and shall not apply to require modifications to, or removal of, structures previously approved once the approved construction or modification has commenced. The Design Guidelines may contain general provisions applicable to all of Prairie View, as well as specific provisions which vary from one portion of Prairie View to another depending upon location, unique characteristics, and intended use. The Design Guidelines may also include the procedures, materials to be submitted and additional factors that will be taken into consideration in connection with the approval of any proposed Improvement. The Design Guidelines may specify circumstances under which the strict application of limitations or restrictions under this Declaration will be waived or deemed waived in whole or in part, and may waive the requirement or exempt Improvements from the requirement for approval if such approval is not reasonably required to carry out the purposes of this Declaration. The Design Guidelines, as the same shall be amended from time to time, need not be recorded, but shall be considered incorporated herein by reference and shall be enforceable as though set forth in full. The Owners agree and understand that in addition to the

Prairie View Design Guidelines, the construction and modification of Improvements within Prairie View shall be subject to and governed by the requirements set forth in the Association Design Guidelines. Each Owner, by accepting a deed for any Family Residential Unit, shall be deemed to have agreed to comply with the requirements of the Association Design Standards, as the same may be interpreted and enforced by the Design Review Committee.

- 8.6 <u>Submission of Application to Modify Improvements</u>. Prior to the commencement of work to modify or otherwise alter any Improvement constructed on any Family Residential Unit, the Person proposing to make such Improvement shall submit to the Prairie View Design Review Committee such information, descriptions, surveys, elevations, plans, specifications and samples showing and describing the proposed alteration as may be required by the Design Guidelines ("Modification Application"). The Design Review Committee may require submission of as much information as is necessary for the Design Review Committee to make a decision as to whether or not to approve the Improvement(s).
- 8.6.1. Application to Remove Home from Unit. The provisions contained in Section 8.6 also apply in situations where the Owner desires to remove the Family Residential Unit's existing home and replace it with another home. Any such removal and replacement is subject to approval of both the Design Review Committee and the Association. The Design Review Committee and/or the Association may require submission of as much information as is necessary for the Design Review Committee and/or the Association to make a decision as to whether or not to approve the removal or replacement of a home.
- any proposed alteration of an Improvement only if it determines that the changes to the Improvement in the location indicated will not be detrimental to the appearance of the surrounding areas of Prairie View as a whole; that the appearance of the proposed Improvement will be in harmony with the surrounding areas of Prairie View; that the Improvement will not detract from the beauty and attractiveness of Prairie View or the enjoyment thereof by the Owners, and that the upkeep and maintenance of the proposed Improvement will not impose any undue burden on the Association. The Design Review Committee may condition its approval of any proposed Modification Application upon such changes as the Design Review Committee may require. Upon approval of the Modification Application by the Design Review Committee, the Applicant shall submit the Modification Application to the Association Design Review Committee for final approval in accordance with the terms of the Declaration.
- 8.8 <u>Decision of Committee</u>. The decision of the Design Review Committee shall be made within forty-five (45) days after the date that it receives the complete Modification Application and any additional materials required by it, unless such period of time is extended by mutual agreement of the Design Review Committee and the Applicant. The decision shall be in writing and, if the decision is to disapprove the Modification Application, the reasons shall be stated. The decision of the Design Review Committee shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Committee.
- 8.9 Failure to Act. Any request for approval of a proposed Modification Application shall be deemed approved unless disapproval or a request for additional information or materials is transmitted to the Applicant by the Design Review Committee within forty-five (45) days after

the date that the Design Review Committee receives the complete Modification Application and any additional materials required by it.

- 8.10 No Waiver of Future Approvals. Approval of proposals, plans and specifications, or drawings for any Modification Application, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.
- 8.11 <u>Prosecution of Work</u>. After approval of any Modification Application, the proposed alterations shall be constructed with reasonable promptness and diligence in conformity with the Modification Application and any conditions imposed by the Design Review Committee in their approval.
- 8.12 <u>Notice of Completion</u>. Upon Completion of the modification, the Applicant shall give written notice of completion to the Design Review Committee. Until the date of its receipt of such notice, the Design Review Committee shall not be deemed to have received notice that the modification has been completed.
- Inspection. The Design Review Committee or its representative shall have the right to inspect any work conducted in accordance with an approved Modification Application prior to or after completion. If, as a result of its inspections or otherwise, the Design Review Committee determines that any modification has been commenced without obtaining the approval of the Design Review Committee, or if it determines that the modification is not being completed or has not been completed in conformity with the Modification Application and ary conditions of approval, the Design Review Committee shall notify the Applicant in writing of such determination. The notice shall specify the particulars of the noncompliance, and shall require the Applicant to take such action as may be necessary to remedy the noncompliance and may, at the election of the Executive Board, be recorded in the real property records of Washington County, Oklahoma. If for any reason other than the Applicant's act or omission, the Design Review Committee fails to notify the Applicant of any noncompliance within forty-five (45) days after the Design Review Committee's receipt of a written notice of completion from the Applicant, the modification shall be deemed to be in compliance with this Declaration. The Association shall have the rights of inspection and final acceptance of the modification as set forth in the Governing Documents.
- 8.14 Enforcement. Any modification placed, installed or constructed, in violation of this Article shall be deemed to be nonconforming. Upon written request from the Design Review Committee, the Owner in violation shall, at his or her own cost and expense, remove the modification and restore the Family Residential Unit in question to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as requested, Declarant and the Association, and their respective designees, shall have the right to remove the violation and restore the Family Residential Unit to substantially the same condition as previously existed, or to pursue all legal and equitable remedies available to enforce the provisions of this Article. All costs and attorneys' fees, together with interest on all sums expended by the Association at such rate as may be charged by it, may be assessed against such Family Residential Unit and collected as a Default Assessment. Additionally, any contractor,

subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded by the Association from performing any future work within Prairie View, upon notice and an opportunity to be heard.

- 8.15 <u>Liability of Design Review Committee and Executive Board Directors.</u> Neither the Design Review Committee, the Executive Board nor any Director thereof nor Declarant shall be liable to the Association or to any Owner or other Person for any loss, damage or injury arising out of or in any way connected with the performance of the Design Review Committee's or Executive Board's respective duties under this Declaration or the other Governing Documents unless arising as a result of an act or omission which is committed in subjective bad faith or which involves intentional misconduct or a knowing violation of law by the Design Review Committee or Executive Board or individual Directors thereof. The Design Review Committee or Executive Board shall not be responsible for reviewing, nor shall its approval of any Plans and Specifications be deemed approval of, structural safety, engineering soundness, or conformance with building codes or any other laws, requirements or standards.
- 8.16 <u>Variances</u>. The Design Review Committee may authorize variances from compliance with any of the Design Guidelines when circumstances so warrant. Such variances must be evidenced in writing and must be signed by at least a majority of the members of the Design Review Committee. If a variance is granted, no violation of this Declaration or the other Governing Documents shall be deemed to have occurred with respect to the matter for which the variance was granted, provided the Applicant complies with the terms of the variance. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or the Design Guidelines for any purpose except as to the particular property and particular provision in the instance covered by the variance.
- 8.17 <u>Scope of Judicial Review</u>. The scope of judicial review of any action taken by the Association or the Design Review Committee pursuant to this Article 8, including but not limited to the promulgation, interpretation, and enforcement of the Design Guidelines, shall be limited to cases of fraud, willful misconduct or subjective bad faith.

ARTICLE 9 RESTRICTIVE COVENANTS

- Owners' Acknowledgment. All Owners and Related Users of Family Residential Units are given notice that use of their Family Residential Units is limited by provisions of the Governing Documents, including, without limitation, the Declaration, as they may be amended from time to time. Each Owner, by acceptance of a deed or other instrument of conveyance, acknowledges and agrees that the use, enjoyment and marketability of his or her Family Residential Unit may be affected by such provisions, and that the covenants, conditions and restrictions affecting the use and occupancy of a Family Residential Unit may be amended from time to time in accordance with the terms of this Declaration and the other Governing Documents.
- 9.2 <u>Right of Owners</u>. The Executive Board shall not adopt any Rule or Regulation in violation of the following provisions:

- 9.2.1. <u>Equal Treatment</u>. Similarly situated Owners and occupants shall be treated similarly.
- 9.2.2. Speech. The rights of Owners to display "For Sale" signs and political signs and symbols in or on their Family Residential Units of the kinds normally displayed in or outside of residences located in residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions for the purpose of minimizing damage and disturbance to other Owners and Related Users.
- 9.2.3. Religious and Holiday Displays. The rights of Owners to display religious and holiday signs, symbols, and decorations of the kinds normally displayed in residences located in residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions for the purpose of minimizing damage and disturbance to other Owners and Related Users.
- 9.2.4. Activities Within Dwelling. No rule shall interfere with the activities carried on within the confines of dwellings on the Family Residential Units, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners that may pose a threat to the health or safety of occupants of other Family Residential Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the Family Residential Unit, that block the views from other Family Residential Units, or that create an unreasonable source of annoyance.
- 9.2.5. Reasonable Rights To Develop. No rule or action by the Association or Executive Board shall unreasonably impede the Declarant's right to develop the Units owned by it in accordance with this Declaration and the Map and all Plats related to Prairie View.
- 9.3 <u>Prohibited Activities</u>. The following activities are prohibited within Prairie View unless expressly authorized and if authorized, subject to such conditions as may be imposed by the Executive Board:
- 9.3.1. <u>Subdivision</u>. Subdivision of a Unit into two or more Units, or changing the boundary lines of any Unit, shall be prohibited without the prior written consent of Declarant prior to the Turnover Date, and without the prior written consent of the Association subsequent to the Turnover Date.
- 9.3.2. <u>Commercial Activities</u>. Any business, profession, Trade, or similar activity shall be prohibited, except that an Owner may conduct business activities within a Family Residential Unit so long as:
- (a) The existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Family Residential Unit;
- (b) The activity conforms to all zoning and other legal requirements for the activity that are applicable to the Family Residential Unit in question;

- (c) The activity does not involve regular visitation of the Family Residential Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of Owners or Related Users; and
- (d) The activity is consistent with the residential character of Prairie View and does not constitute a nuisance, hazardous or offensive use, or threaten the security or safety of other Owners or Related Users, as may be determined in the reasonable discretion of the Executive Board.
- (e) <u>Leases and Guests</u>. The term "lease" as used herein, shall include any agreement for the leasing or rental of a Family Residential Unit and shall specifically include, without limitation, a month-to-month rental. Owners shall not have the right to license, lease for consideration or otherwise or allow any person to reside or stay as a guest within the confines of or anywhere upon the Owner's Family Residential Unit for greater than fourteen (14) calendar days without the approval of either the Association or the Executive Board, which shall not be unreasonably withheld.
- 9.3.3. <u>Nuisances</u>. Any use, activity, or practice that is the source of or unreasonably interferes with the peaceful enjoyment or possession of a Family Residential Unit or any portion of the Common Areas or any portion of the Prairie View community shall be prohibited. All valid laws, ordinances and regulations of all governmental bodies having jurisdiction over Prairie View or any portion thereof shall be observed and may be enforced by the Association as if the same were contained in the Governing Documents. In no event shall the activities of the Declarant which are reasonably necessary to the exercise of the rights granted to them by this Declaration or under applicable laws be considered a "nuisance" unless such activities unreasonably interfere with any Owner's use and enjoyment of such Owner's Family Residential Unit.
- 9.3.4. <u>Vehicles</u>. Parking, storing, servicing or repairing of commercial vehicles, recreational vehicles, mobile homes, boats, campers, trailers, watercraft, or other oversized vehicles, or any inoperative vehicles, shall be permitted only in areas designated for such parking, storage, service or repair by the Association.

9.3.5. <u>Animals</u>.

- (a) No Commercial Breeding. In no event may any Owner engage in the commercial breeding of animals on any portion of Prairie View, and in no event shall any Owner keep any animals other than common household pets within Prairie View.
- (b) Pet Supervision. No household pet or animal shall be allowed in or about Prairie View, including the Common Elements, at any time unless on a hand-held leasn which is under the control of an Owner, Related User or Guest of the Owner. Owners will be held responsible for any litter, waste, mess or damage created by the Owner's, Related User's or Guest's pets and for any offensive or prolonged noises created by those pets.
- (c) <u>Pet Limitations</u>. No Owner or Related User may allow more than three (3) pets to occupy a Family Residential Unit without the advance consent of the Executive

Board. The Executive Board may establish additional guidelines, including weight limitations for pets within Prairie View.

- (d) Rules and Regulations. The Association shall adopt such additional Rules and Regulations regarding domestic pets designed to minimize damage and disturbance to other Owners and occupants as the Association deems appropriate to maintain the superior standards of Prairie View, including Rules and Regulations requiring damage deposits, waste removal, leash controls and noise controls.
- 9.3.6. <u>Vegetation</u>. Owners may not engage in any activities that materially disturb or destroy the vegetation, wildlife or air quality within the Prairie View community, or which use excessive amounts of water, or which result in unreasonable levels of sound or light. An Owner may remove or replace dead or diseased vegetation on his or her Family Residential. Unit, however, an Owner may only modify the Landscaping of his or her Family Residential. Unit with the advance approval of the Design Review Committee obtained in accordance with the Design Review Standards.
- 9.3.7. Grade. No Owner may obstruct or re-channel drainage flows, or alter the location or installation of drainage swales, storm sewers or storm drains. Declarant and the Association, however, may engage in any of the activities described in this subsection if such activities do not materially diminish the value of, or unreasonably interfere with, the use and enjoyment of any Family Residential Unit.
- 9.3.8. <u>Satellite Dishes</u>. No owner shall install or allow to be installed on any Family Residential Unit any antenna, satellite dish or other apparatus used for television or communication systems that exceeds one meter in diameter.
- 9.3.9. <u>Fences and Walls</u>. No owner shall install or allow to be installed on any Family Residential Unit any fences, walls or any other similar artificial structure. This provision does not prohibit hedges or other natural vegetation from being used as a property barrier.

9.4 Use Restrictions.

9.4.1. <u>Parking</u>.

- (a) Parking is allowed in designated areas only. Unless specifically provided for in the Rules and Regulations of the Association, no parking shall be allowed on any of the streets within Prairie View.
- (b) All parking rules and limitations within Prairie View shall be subject to any applicable City of Bartlesville ordinances and to any Rules and Regulations promulgated by the Association.
- 9.4.2. <u>Use</u>. All Family Residential Units shall be used only for those uses and purposes allowed by applicable City of Bartlesville zoning ordinances and regulations.
- 9.4.3. Exterior Lighting Fixtures. All lighting fixtures installed on or outside the exterior walls of any dwelling or other structure shall be subject to the approval of the Design

Review Committee for harmonious development and the prevention of lighting nuisances to other Family Residential Units and Common Areas in the Prairie View community. Such lighting fixtures also shall comply fully with any applicable City of Bartlesville lighting ordinances, regulations or requirements.

ARTICLE 10 EASEMENTS AND RESERVATIONS

10.1 Easements of Encroachment. Reciprocal appurtenant easements of encroachments, and for maintenance and use of any permitted encroachments, are hereby granted and created between each Unit and any adjacent Common Areas and between adjacent Units. These easements concern the unintentional placement or the settling or shifting of any Improvements constructed, reconstructed, or altered thereon. Each such easement shall extend to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, an Owner.

In the event that the manicured portion of the landscaping maintained by the Association for the exclusive use of a particular Unit (the "Yard") encroaches into a Common Area, a temporary easement appurtenant is hereby granted to such Unit for the use of the Yard for the period of the encroachment; provided, however, the Association may adjust the maintenance of such manicured area at anytime to eliminate the encroachment.

- 10.2 <u>Easements for Sidewalks and Cul-De-Sacs</u>. Declarant hereby reserves, for itself, the Association, and their duly authorized agents, representatives, employees, successors, assigns, licensees, and Mortgagees, easements upon, across, over, and under all of the Units and Common Areas to the extent reasonably necessary for the purpose of installing, replacing, repairing and maintaining any sidewalks and/or cul-de-sacs required by that certain Subdivision Agreement by and between Prairie View Communities LLC and the City of Bartlesville, Oklahoma, a municipal corporation ("Bartlesville"), dated <u>April 26</u>, 2005, or as such sidewalks and cul-de-sacs may otherwise be required by Bartlesville. Without limiting the foregoing, the following lots shall be encumbered by cul-de-sac easements:
 - 10.2.1. Block 1, Lots 4, 5, 6, 7, 14, 15, 16, 17
 - 10.2.2. Block 4, Lots 12, 13, 14, 15
 - 10.2.3. Block 5, Lots 3, 4, 5, 12, 13, 14
 - 10.2.4. Block 8, Lots 3, 4, 5, 12, 13, 14
- Association, and for any governmental entities or utility companies providing utility services to Units, access and maintenance easements upon, across, over, and under all of the Units owned by Declarant and Common Areas to the extent reasonably necessary for the purpose of replacing, repairing, and maintaining any cable television systems, security and similar systems, roads, walkways, bicycle pathways, wetlands, drainage systems, street lights, signage, and all utilities,

including, but not limited to, water and sewer lines and facilities, meter boxes, telephone, gas, and electricity, and for the purpose of installing any of the foregoing within easements designated for such purposes on the Plat. This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any structure or other improvement constructed within any Common Area, and any damage to any such structure or other improvement resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or Related User.

- 10.4 Easements Over Common Areas. The Declarant hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees, and Mortgagees, an easement over the Common Areas for the purposes of enjoyment, use, access, and development of all or any portion of Prairie View. This easement includes, but is not limited to, a right of ingress and egress over the Common Areas for construction of roads and for connecting and installing utilities. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused by it or its agents or employees to the Common Areas as a result of vehicular traffic connected with the development of Prairie View.
- and its duly authorized agents, representatives, and employees, access and maintenance easements upon, across, over, and under all of the Units to the extent necessary to install, maintain and repair the Unit Landscaping and Common Area Landscaping and to maintain those Improvements that the Association has expressly undertaken the responsibility to install or maintain in order to ensure Prairie View is maintained in the superior condition contemplated in this Declaration and the Governing Documents. Any damage caused by the Association's entry onto a Unit for the purposes specified herein shall be repaired by the Association as a Common Expense. To the extent damage to a Unit is caused by the willful misconduct of any authorized agent, representative or employee, the Association shall attempt to recover the costs associated with the repair from the party engaging in the misconduct.
- Article 8 above, the Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance, lawn care and Landscaping pursuant to the Governing Documents, and to inspect for compliance with this Declaration and the other Governing Documents, which right may be exercised by any Director of the Executive Board, the Association and its officers, agents, employees, and managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and any damage caused by entry shall be repaired by the Association as a Common Expense. This right of entry shall include the right of the Association to enter upon any Unit to cure any condition which may increase the possibility of a fire or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Executive Board. In no event will the provisions of this Section 10.5 authorize entry into any dwelling without the prior consent of the Owner.

ARTICLE 11 MORTGAGEE PROVISIONS

- 11.1 Notices of Action. A First Mortgagee that provides a written request to the Association stating the name and address of such First Mortgagee and the street address of the Family Residential Unit to which its First Mortgage relates (any such First Mortgagee is referred to as an "Eligible Holder"), will be entitled to timely written notice of:
- 11.1.1. Any condemnation loss or any casualty loss which affects a material portion of Prairie View or which affects the Family Residential Unit encumbered by the First Mortgage held, insured, or guaranteed by the Eligible Holder;
- 11.1.2. Any delinquency in the payment of assessments or charges owed by the Family Residential Unit subject to the First Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Declaration or Bylaws relating to such Family Residential Unit or the Owner or occupant which is not cured within 60 days. Notwithstanding this provision, any holder of a First Mortgage is entitled to written notice upon request from the Association of any default in the performance by an Owner of any obligation under the Declaration or Bylaws which is not cured within 60 days; or
- 11.1.3. Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.
- 11.2 <u>Special FHLMC Provision</u>. So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless Members representing at least 67% of the total Association vote entitled to be cast thereon consent, the Association shall not:
- 11.2.1. By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Areas which the Association owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Areas shall not be deemed a transfer within the meaning of this subsection);
- 11.2.2. Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner (any action, including contracts, by the Executive Board, shall not be subject to this provision if such action is otherwise authorized by this Declaration or the Bylaws);
- 11.2.3. By act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance or maintenance of Family Residential Units and the Common Areas (the issuance and amendment of architectural standards, procedures, Rules and Regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);
 - 11.2.4. Fail to maintain insurance as required by this Declaration; or

11.2.5. Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Areas, may pay overdue premiums on casualty and liability insurance policies or secure new casualty and liability insurance coverage upon the lapse of an Association policy, and First Mortgagees making such payments shall be entitled to immediate reimbursement from the Association.

- 11.3 Other Provisions for First Mortgagees. To the extent permitted under Oklahoma law:
- 11.3.1. Any restoration or repair of any of the Common Areas after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Declaration and the original plans and specifications unless the approval is obtained of the Eligible Holders of First Mortgages on Family Residential Units to which at least 51% of the votes of Family Residential Units subject to Mortgages held by such Eligible Holders are allocated.
- 11.3.2. Any election to terminate the Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of First Mortgages on Family Residential Units to which at least 51% of the votes of Family Residential Units subject to First Mortgages held by such Eligible Holders are allocated.
- 11.3.3. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the First Mortgages of any Family Residential Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Areas.
- 11.3.4. <u>Notice to Association</u>. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the Mortgagees or any other person or entity holding a debt that encumbers such Owner's Family Residential Unit.
- Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements as set forth in this Article, or make any such requirements less stringent, the Executive Board, without approval of the Owners, may record an amendment to this Article to reflect such changes.
- 11.3.6. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Executive Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.
- 11.3.7. <u>HUD/VA Approval</u>. To the extent required by said agencies, until the Turnover Date the following actions shall require the prior approval of the Federal Housing

Administration or the United States Department of Veterans Affairs, if either such agency is insuring or guaranteeing Mortgages that encumber any portion of Prairie View:

- (a) Annexation of additional property not otherwise identified for annexation in this Declaration;
 - (b) Dedication, conveyance or mortgaging of Common Areas; or
 - (c) Material amendment of this Declaration.

ARTICLE 12 INSURANCE/CONDEMNATION

- 12.1 General Requirements. Commencing not later than the time of the first conveyance of a Unit to a person other than a Declarant, the Association shall maintain, to the extent reasonably available, and at all times, the insurance coverage set forth in this Article 12 and in the Statutes, as from time to time amended, and such additional insurance as the Executive Board determines is prudent or necessary to indemnify the Association, the Executive Board and the Owners.
- 12.1.1. All insurance coverage shall be provided by financially responsible and able companies duly authorized to do business in the State of Oklahoma.
- 12.1.2. All policies of insurance shall contain, to the maximum extent permitted without negating coverage, waivers of subrogation and waivers of any defense based on invalidity arising from any acts of an Owner, and shall provide that such policies may not be canceled or modified without at least thirty (30) days prior written notice to all of the Owners and the Association.
- 12.1.3. Any insurance obtained by the Association shall name the Association, the Executive Board, the manager or managing agent, if any, the officers of the Association, Declarant, and Owners as insureds, or additional insureds, as their interests may appear.
- 12.1.4. If requested, duplicate originals of all policies and renewals thereof, together with proof of payments of premiums, shall be delivered to all holders of First Mortgages at least ten (10) days prior to expiration of the then current policies.
- Claim Submittal. The Rules and Regulations may include nondiscriminatory policies and procedures relating to the submittal of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. If more than one Family Residential Unit is damaged by a loss, the Association, in its reasonable discretion, may assess each Owner a pro rata share of any deductible paid by the Association. Any portion of the Common Areas for which insurance is required under this Declaration which is damaged or destroyed must be promptly repaired or replaced substantially in accordance with the plans and specifications for the improvement in question. To the extent the insurance proceeds are insufficient to pay for the restoration, the deficiency shall be assessed as a Common Expense.

- 12.3 <u>Association Liability Insurance</u>. The Association shall obtain an adequate comprehensive policy of public liability and property damage liability insurance covering all of the Units, Family Residential Units and the Common Elements, in such limits as the Executive Board may from time to time determine, but not in any amount less than One Million Dollars (\$1,000,000.00) per injury, per person, and per occurrence, and in all cases covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association including "non-owned" automobile coverage, and activities in connection with the ownership, operation, maintenance and other uses of the Prairie View community.
- Association Worker's Compensation and Employer's Liability Insurance. The Association shall obtain worker's compensation and employer's liability insurance and all other similar insurance with respect to its employees in the amounts and forms as may now or hereafter be required by law.
- agent, if any, shall obtain policies of fidelity insurance in the amounts prescribed by the Statutes as amended from time to time, to protect against dishonest acts on the parts of its officers directors, trustees and employees and on the part of all others who handle or are responsible for handling the funds of the Association, including persons who serve the Association with or without compensation. The fidelity coverage should be in an amount sufficient to cover the maximum funds that will be in the control of the Association, its officers, directors, trustees and employees.
- Association May obtain an expansive form of officers' and directors' personal liability insurance to protect the officers, directors and committee members from personal liability in relation to their duties and responsibilities in acting as officers and directors on behalf of the Association.
- 12.7 Other Insurance. The Association may obtain insurance against such other risks of similar or dissimilar nature, including flood insurance, as it shall deem appropriate with respect to the Association's responsibilities and duties.
- Association in compliance with this Section, including without limitation insurance premiums and all costs and expenses borne by the Association in connection with insured and uninsured losses to persons or property within Prairie View, repairs and replacement of insured and uninsured uninsured property, and claims settlement or adjustment shall be considered Common Expenses.

ARTICLE 13 RESERVATION OF DECLARANT RIGHTS

13.1 Special Declarant Rights. Subject to the provisions and restrictions contained in the Statutes, Declarant hereby reserves the power and authority to exercise and engage in the following rights at any time from the Effective Date of this Declaration until the Turnover Date:

- 13.1.1. Conveyance for Governmental Interests. The right to designate sites within any portion of Prairie View for fire, police, water, drainage, and utility facilities, parks, and other public facilities.
- 13.1.2. <u>Completion of Improvements</u>. The right to construct and install Improvements on the Common Areas and Family Residential Units owned by the Declarant.
- 13.1.3. Exercise of Development Rights. The right to exercise any expansion or other rights reserved in Article 14 of this Declaration.
- 13.1.4. Sales Management and Marketing. The right of Declarant to maintain sales and management offices upon any Unit owned by it or upon any of the Common Areas, the right to maintain advertising and promotional signs and banners, the right to maintain model homes and sales and management offices on any Unit owned by the Declarant, as applicable.
- 13.1.5. <u>Construction Facilities</u>. The right of the Declarant and its respective employees, representatives, agents, and contractors to maintain within Prairie View temporary construction facilities and construction materials staging yards, and other facilities required during the construction of Improvements to, and sale of, the Units. The location of all such facilities shall be subject to approval in accordance with the Declaration.
- 13.1.6. <u>Construction Easements</u>. The right of Declarant to use easements through the Common Areas for the purpose of making Improvements within Prairie View, and the right to use, and to permit others to use, easements through the Common Areas as may be reasonably necessary for the purpose of discharging Declarant's obligations under this Declaration, all as more particularly described in Article 14 below.
- 13.1.7. Merger. The right to merge or consolidate Prairie View with another real estate development.
- 13.1.8. <u>Control of Association and Executive Board</u>. The right to appoint or remove any Officer of the Association or any Executive Board Director as provided by this Declaration.
- 13.1.9. <u>Amendment of Declaration</u>. The right to amend the Declaration and any Plat in connection with the exercise of any right reserved by Declarant in accordance with this Declaration.
- 13.1.10. <u>Use Agreements</u>. The right to enter into, establish, execute, amend, and otherwise deal with contracts and agreements for the use, lease, repair, maintenance or regulation of parking, utility, drainage, recreation and Common Area facilities and any other amenities for the benefit of the Owners and/or the Association.
- 13.1.11. Other Rights. The right to exercise any additional rights reserved created by any other provision of this Declaration.
- 13.1.12. <u>No Approval Required</u>. Unless required by the Statutes, each of the foregoing rights and activities may be exercised and conducted by Declarant without the

requirement of any consent or approval of the Association, the Executive Board, the Design Review Committee, or any other Person whose consent or approval would be required by the terms of this Declaration or the other Governing Documents in the absence of this Article 13.

13.2 <u>Subject Real Estate</u>. The rights reserved by Declarant pursuant to this Article 13 and Article 14 below shall apply to all of Prairie View, including without limitation any portion of any additional property that is made subject to the terms of this Declaration.

ARTICLE 14 DEVELOPMENT AND WITHDRAWAL RIGHTS

- 14.1 <u>Development and Withdrawal Rights</u>. Declarant expressly reserves the right, at any time after the Effective Date of this Declaration until termination of the Development Rights as defined below to:
 - 14.1.1. Add real estate to the real estate development;
 - 14.1.2. Create additional Units, Common Areas (including Common Elements);
 - 14.1.3. Subdivide Units;
 - 14.1.4. Relocate boundaries between Units;
 - 14.1.5. Convert Units into Common Areas; or
- 14.1.6. Convert Common Areas into Units, on all or any portion of Prairie View, except those Units sold.
- with this Article on all or any portion of Prairie View in whatever order or sequence that Declarant, in its sole discretion, determines. Subject to the limitations contained in the Statutes, Declarant expressly reserves the right to withdraw all or any portion of the property from Prairie View by recording a document evidencing such withdrawal in the real property records of Washington County, Oklahoma. The property withdrawn from Prairie View shall be subject to whatever easements, if any, are reasonably necessary for access to or operation of any portion of Prairie View remaining subject to this Declaration. Declarant shall prepare and record in the real property records of Washington County, Oklahoma, whatever documents are necessary to evidence such easements.
- any of the rights referred to in this Article 14, Declarant shall record an appropriate amendment to this Declaration which shall, among other matters, reallocate the Allocated Interests as contemplated by Article 16 below, so that the Allocated Interests appurtenant to each Family Residential Unit will be apportioned according to the total number of Units subject to this Declaration.

- 14.4 <u>Interpretation</u>. Recording of amendments to this Declaration in the real property records of Washington County, Oklahoma, shall automatically:
- 14.4.1. Vest in each existing Owner the reallocated Allocated Interests appurtenant to his or her Family Residential Unit; and
- 14.4.2. Vest in each existing Mortgagee a perfected security interest in the reallocated Allocated Interests appurtenant to the encumbered Family Residential Unit.
- Rights Incident to the Construction Easement. Declarant expressly reserves the right to perform construction work and to store materials on Units owned by it and on the Common Elements and to the extent easement rights are granted in any additional Common Areas, and the future right to control such work and repairs, and the right of access thereto, until its completion. All work may be performed by Declarant without the consent or approval of any Owner or Mortgagee. Declarant reserves an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Such easement includes the right to construct underground utility lines, pipes, wires, ducts, conduits, and other facilities across the land not designated as reserved for future development in the Declaration or on any Plat for the purpose of furnishing utility and other services to the property so reserved for future development. Declarant's reserved construction easement includes the right to grant easements to public utility companies and to convey improvements within these easements anywhere in the Common Elements.
- Declarant, for itself, its successors and assigns, shall expire when the maximum number of Units that may be created within Prairie View have been conveyed to Family Residential Unit Owners other than Declarant or the date that is 24 years after the date that this Declaration has been recorded in the real property records of Washington County, Oklahoma, whichever is the first to occur. The Declarant may consent to an earlier termination of its Development Rights by executing and recording an instrument in the real property records of Washington County, Oklahoma confirming Declarant's relinquishment of its Development Rights, and the terms and conditions applicable to the same.

ARTICLE 15 AMENDMENT AND TERMINATION

15.1 Technical, Clerical, Typographical or Clarification Amendment. If the Declarant, or after the Turnover Date, the Executive Board, shall determine that any amendments to this Declaration, the Map, the Plat, the Governing Documents or to any other map or plat shall be necessary in order to make non-material changes, such as for the correction of technical, clerical or typographical errors or the clarification of a statement, then the Declarant shall have the right and power to make and execute any such amendments at any time prior to the Turnover Date, and thereafter the Executive Board shall have the right and power to make and execute any such amendments, in either event without the need for obtaining the approval of any Owners or First Mortgagees.

- 15.2 Amendments Necessary to Exercise Authority of Association. In addition to the rights granted to the Declarant to execute amendments to this Declaration, the Executive Board shall have the authority to execute amendments to this Declaration, the Governing Documents or to any map or plat which are reasonably necessary in order for the Association to perform its duties as authorized by this Declaration.
- 15.3 Attorney in Fact. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Declarant and the Executive Board to make or consent to an amendment under this Article 15 on behalf of each Owner and holder of a First Mortgage. Each deed, First Mortgage or other evidence of obligation or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of Declarant and the Executive Board to make, execute and record an amendment under this Section.
- Declaration, and subject to provisions elsewhere contained in the Statutes and in this Declaration requiring the consent of others, any provision, covenant, condition, restriction, or equitable servitude contained in this Declaration may be changed or repealed, and any such provision added to this Declaration at any time and from time to time upon approval of the Executive Board and at least sixty-seven percent (67%) of the votes in the Association. Notwithstanding the foregoing, however, no amendment shall be adopted nor shall be effective at anytime prior to the Turnover Date unless Declarant shall have granted its written approval to the same, and no change or repeal of any provision of this Declaration shall act to change or otherwise modify the terms of the Declaration unless the Declaration is amended in accordance with its terms for amendment.
- Date, Declarant shall have the right to amend this Declaration, the Map, the Plat, the Governing Documents and any other map or plat to the extent necessary to comply with the requirements standards or guidelines of recognized secondary mortgage markets, including without limitation the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or the Federal National Mortgage Association. After the Turnover Date, the Association shall have the right to execute any such amendments to this Declaration, the Map, the Plat, the Governing Documents and any other map or plat. Any amendment executed pursuant to this Section 15.5 shall be effective upon the recordation in the real property records of Washington County, Oklahoma, of a certificate, setting forth the amendment or repeal in full.
- 15.6 Recording of Amendments. To be effective, all amendments to this Declaration must be recorded in the real property records of Washington County, Oklahoma, and must contain evidence of approval thereof. One method of satisfying the requirement of this Section is the recordation of a certificate by the Secretary of the Association certifying that Owners representing the requisite percentage of the Family Residential Units (if so required) have given their written consent to the amendment in question.

- 15.7 <u>Association Certification</u>. Amendments to the Declaration required by this Article to be recorded by the Association shall be prepared, executed, recorded, and certified on behalf of the Association by any officer of the Association designated for that purpose or, in the absence of designation, by the president of the Association.
- 15.8 Expenses. All expenses associated with preparing and recording an amendment to the Declaration shall be the sole responsibility of:
- 15.8.1. In the case of an amendment for the purpose of altering boundaries between adjoining Units, and subdivision of Units, the Owners desiring the amendment;
- 15.8.2. In the case of an amendment for the purpose of reallocating Allocated Interests, recordation of new plats and maps, and exercise of Development Rights, Declarant; and
 - 15.8.3. In all other cases, by the Association as a Common Expense.
- 15.9 <u>Termination</u>. This Declaration may be terminated upon an affirmative vote of the Owners holding eighty percent (80%) of the Allocated Interests, provided such termination shall not be effective at anytime prior to the Turnover Date without the prior written approval of Declarant.

ARTICLE 16 ALLOCATED INTERESTS & VOTING

- 16.1 Formula for Determining Allocated Interests. The Common Expenses and the votes in the Association shall be allocated to each Family Residential Unit. The interests allocated to each Family Residential Unit have been or will be calculated as follows:
- 16.1.1. Percentage Share of Common Expenses and Percentage Share of Ownership of Common Elements. The percentage of liability for Common Expenses shall be borne only by the Owners of Family Residential Units located in Prairie View on the basis of a fraction, the numerator of which is one (1) and the denominator of which is the total number of Units located within Prairie View.
- 16.1.2. <u>Voting</u>. Generally, there shall be one vote per Family Residential Unit owned.
- (a) The Owner(s) of each Family Residential Unit shall have one (1) collective vote per Family Residential Unit owned, except that the Declarant shall have two (2) votes per Unit or Family Residential Unit owned until seventy-five percent (75%) of the Units are sold.
- (b) If, at any time, Declarant owns twenty-five percent (25%) or fewer of the Units or Family Residential Units at Prairie View, then the Declarant shall have one vote per Unit or Family Residential Unit owned. However, if at any time after selling at least 75% of the total Units in Prairie View the Declarant then reacquires more than 25% of the total Units in

Prairie View, the Declarant will again have two votes per Unit or Family Residential Unit owned.

- Allocation Between Improved and Unimproved Units. In the Executive Board's discretion, and provided Declarant's consent to such determination is received if such determination is made prior to the Turnover Date, "Improved Units" (i.e., a Family Residential Unit or any Unit which has been improved with a completed home for which a temporary or permanent certificate of occupancy has issued) may be assessed differently than "Unimproved Units" (i.e., Units on which a temporary or permanent certificate of occupancy has not yet been issued for a home), to reflect the fact that such Unimproved Units are not using the Common Areas and to reflect the approximate differential in the cost of services provided by the Association to Improved Units as compared with Unimproved Units. In each case all Unimproved Units shall be assessed in a non-discriminatory manner based upon such portion of their respective Allocated Interests as the Executive Board (with Declarant's consent, as required in accordance with the preceding sentence) may determine; and all Improved Units shall be assessed in a non-discriminatory manner based upon such portion or multiple of their respective Allocated Interests as the Executive Board may determine.
- 16.3 Fractional Voting Not Allowed. Notwithstanding the number of Owners of record for any particular Family Residential Unit, each Family Residential Unit is entitled to exercise its voting rights in accordance with the voting percentage outlined above, which vote cannot be fractionally divided. When multiple parties own a Family Residential Unit, the Owners shall advise the Association of the party entitled to cast the Family Residential Unit vote. If the multiple Family Residential Unit Owners do not agree on how the Family Residential Unit vote is to be cast the vote for that Family Residential Unit shall not be considered in determining the particular matter proposed or issue requiring approval.
- 16.4 <u>Reallocation</u>. When Units are withdrawn from, or added to, Prairie View, pursuant to the provisions of this Declaration, the formula set forth in Section 16.1 above shall be used to reallocate the Allocated Interests.

ARTICLE 17 GENERAL PROVISIONS

- 17.1 <u>Rights Transferable/Rights Transferred</u>. Any rights created or reserved under this Declaration for the benefit of Declarant may be transferred to any person by an instrument describing the rights transferred recorded in the real property records of Washington County, Oklahoma. Such instrument shall be executed by the transferor and the transferee. The rights so transferred may be then exercised without the consent of the Association, any Owner or any Mortgagee.
- of the Governing Documents, the Association (or any person or class of persons adversely affected by the failure to comply which has the right to enforce the Governing Documents or any portion thereof as provided therein) may require reimbursement for collection costs and reasonable attorney fees and costs incurred as a result of such failure to comply, without the necessity of commencing a legal proceeding. For each claim, including but not limited to

counterclaims, cross-claims, and third-party claims, in any legal proceeding to enforce provisions of the Governing Documents, the court shall award to the party prevailing on such claim the prevailing party's reasonable collection costs and attorneys' fees and costs incurred in asserting or defending the claim. In all instances, however, the court shall award the Association the fees and costs incurred by it in recovering any assessments, as provided in Section 7.7 above.

- 17.3 <u>Severability</u>. Should any part or parts of this Declaration be declared invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions.
- 17.4 <u>Paragraph Headings</u>. The paragraph headings in this Declaration shall not be given undue weight in the interpretation of this Declaration.
- Association. All notices or demands affecting the Prairie View community may be served upon an Owner by the Association or by other Owners by regular United States Mail, postage prepaid, addressed in the name of the Owner at such registered mailing address or by personal service. All notices or demands intended to be served upon the Association or the Design Review Committee shall be sent by certified United States Mail, postage prepaid, return receipt requested, to the address of the Association as designated in the Certificate of Incorporation or Bylaws of the Association or served by personal service on the Association's registered agent for service.
- 17.6 <u>Gender</u>. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.
- 17.7 <u>Jurisdiction and Venue; Applicable Law.</u> This Declaration is filed in the records of Washington County, Oklahoma, and it is agreed that the proper jurisdiction and venue for any action pertaining to the interpretation or enforcement of this Declaration shall be in the District Court for Washington County, Oklahoma. This Declaration shall be governed by, and shall be construed in accordance with, the laws of the State of Oklahoma.
- 17.8 <u>Binding Agreement</u>. It is understood and agreed that this Declaration shall run with the land and shall be binding upon and inure to the benefit of the respective heirs, personal representatives, successors, and assigns of Declarant and each Owner.
- 17.9 Reference to Ownership Interests. Whenever in this Declaration or in the Certificate of Incorporation or Bylaws of the Association reference is made to a specific percentage interest of Owners, such reference shall be deemed to mean such percentage of the total aggregate Allocated Interests of such Owners, unless the context otherwise requires, and shall not be deemed to mean a percentage of Owners by number of individual persons, partnerships, corporations or other entities.
- 17.10 Non-Dedication of Common Areas. Declarant, in recording the Plats and this Declaration, has designated certain areas of land as Common Areas intended for the common use and enjoyment of Owners for recreation and other related activities. The Common Areas are not.

by the terms of this Declaration, dedicated for use by the general public, unless they have been dedicated to, and accepted by, the City of Bartlesville.

17.11 <u>References to Declaration</u>. Reference to this Declaration in any document or instrument in the real property records shall be deemed to include any supplements or amendments to this Declaration, without specific reference thereto.

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Dated this	5th	day of	August	, 2005.
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DECLARANT:

PRAIRIE VIEW COMMUNITIES, LLC

Patrick Peterson, MANAGER

STATE OF OKLAHOMA CC **COUNTY OF WASHINGTON**

This instrument was acknowledged and subscribed to before me this 5th day of , 2005, by Patrick Peterson, MANAGER August

My commission expires:_

NOTARY PUBLIC
NOTARY PUBLIC
Commission #99014184
Washington County, Oklahoma
Expiration: 8/31/2007

Notary Public

EXHIBIT A (LEGAL DESCRIPTION OF ADDITIONAL PROPERTY, See Section 14.1)

A PARCEL O	F LAND LOCA	ATED IN TH	E:		

ADDENDUM

TO

DECLARATION FOR PRAIRIE VIEW ADDITION

This addendum refers to the Declaration for Prairie View Addition filed 08/08/05 in Book 1033 on Pages 2214-2261 as filed in the Washington County Clerks office. The following sections are amended as follows;

Recitals Paragraph B: Omit in entirety.

Article 1.5.29 - Second sentence which reads: "Where more than one owner owns a family residential unit, at least one of the owners must be over the age of fifty-five (55) years", shall be omitted.

Article 1.5.29 (a) - omitted

Article 1.5.29 (b) - omitted

Doc # 2006001137

Bk 1039

Ps 2288-2288

DATE 02/02/06 10:16:20

Filing Fee #13.00

Documentary Tax #0.00

State of Oklahoma

County of WASHINGTON

WASHINGTON County Clerk

M. PARRISH

PRAIRIE VIEW COMMUNITIES, LLC

By. Duck Selection

Patrick Peterson, Manager

Bartlesville, OK 14006

STATE OF OKLAHOMA

}cc

COUNTY OF WASHINGTON

This instrument was acknowledged and subscribed to before me this had any of february, 2006, By Patrick Peterson, Manager.

My commission expires: / 3/-08

Notary Public