

**TO APPROVE BUSINESS LEASE NO. 4200337498 (G09-2017) ON LAND HELD BY THE USA
IN TRUST FOR THE CHOCTAW AND CHICKASAW NATIONS IN LATIMER COUNTY,
OKLAHOMA**

IN THE TRIBAL COUNCIL OF THE CHOCTAW NATION

RONALD PERRY INTRODUCED THE FOLLOWING BILL

A COUNCIL BILL

TO APPROVE Business Lease No. 4200337498 (G09-2017) on land held by the USA in Trust for the Choctaw & Chickasaw Nations in Latimer County, Oklahoma.

WHEREAS in accordance with Article VII, Section 1 of the Constitution of the Choctaw Nation of Oklahoma (the "Nation"), the Chief shall perform all duties pertaining to the Office of the Chief Executive. He shall sign official papers on behalf of the Nation;

WHEREAS in accordance with Article IX, Section 6 of the Constitution of the Choctaw Nation of Oklahoma, the Tribal Council (the "Council") shall make decisions pertaining to the acquisition, leasing, disposition, and management of tribal property;

WHEREAS the Choctaw Nation of Oklahoma is proposing a business lease for the Talihina Data Center on property held by the USA in Trust for the Choctaw & Chickasaw Nations located in Section 3, Township 3 North, Range 21 East, Latimer County, OK. Please see attached Lease labeled Exhibit A, survey map labeled Exhibit B, and aerial map labeled Exhibit C;

WHEREAS the proposed payment will be \$0.00 per year since it will be used for the benefit of the Choctaw Nation of Oklahoma. See Exhibit A;

WHEREAS the lease will be for an initial term of twenty-five (25) years with an automatic option to renew for an additional term of twenty-five (25) years; and

WHEREAS the Tribal Council has determined it is in the best interest of the Choctaw Nation of Oklahoma to approve Business Lease No. 4200337498 (G09-2017) and to waive the payment of rent, need for an appraisal or other valuation method, compensation review, performance bond requirement, and insurance requirement.

THEREFORE BE IT ENACTED by the Tribal Council that this Bill be cited as approval of proposed Business Lease No. 4200337498 (G09-2017) located in Section 3, Township 3 North, Range 21 East, Latimer County, OK, in favor of the Choctaw Nation of Oklahoma, on land held by the USA in Trust for the Choctaw & Chickasaw Nations. See page 1 of Exhibit A.

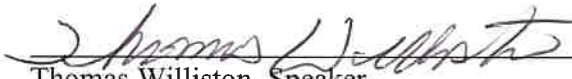
BE IT FUTHER ENACTED, by the Tribal Council of the Choctaw Nation of Oklahoma, that this bill be cited as approval of the payment of \$0.00 per year for an initial term of twenty-five (25) years with an automatic option to renew for an additional term of twenty-five (25) years.

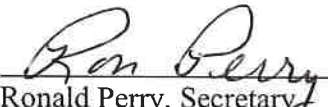
**TO APPROVE BUSINESS LEASE NO. 4200337498 (G09-2017) ON LAND HELD BY THE USA
IN TRUST FOR THE CHOCTAW AND CHICKASAW NATIONS IN LATIMER COUNTY,
OKLAHOMA**

BE IT FURTHER ENACTED by the Council that this Bill be cited as an acknowledgement that the Chief of the Nation, or his designee, is authorized to prepare, execute, deliver and file any and all agreements, certificates, instruments and documents, in such form and with such terms and provisions as the Chief of the Nation, or his designee, may approve, and to take such other action as he, she or they may deem proper or appropriate, to carry out the intent and purposes of the foregoing enactments.

CERTIFICATION

I, the undersigned, as Speaker of the Tribal Council of the Choctaw Nation of Oklahoma, do hereby certify that the Tribal Council is composed of twelve (12) seats. Eight (8) members must be present to constitute a quorum. I further certify that Twelve (12) members answered roll call and that a quorum was present at the Regular Session of the Tribal Council at Tuskahoma, Oklahoma, on May 14, 2022. I further certify that the foregoing Council Bill CB- 119 -22 was adopted at such meeting by the affirmative vote of Twelve (12) members, Zero (0) negative votes, and Zero (0) abstaining.


Thomas Williston, Speaker
Choctaw Nation Tribal Council


Ronald Perry, Secretary
Choctaw Nation Tribal Council


Gary Batten, Chief
Choctaw Nation of Oklahoma

Date 5-17-22

**TO APPROVE BUSINESS LEASE NO. 4200337498 (G09-2017) ON LAND HELD BY THE USA
IN TRUST FOR THE CHOCTAW AND CHICKASAW NATIONS IN LATIMER COUNTY,
OKLAHOMA**

Purpose of Council Bill: This bill approves Business Lease No. 4200337498 (G09-2017), in favor of the Choctaw Nation of Oklahoma, on land held by the USA in Trust for the Choctaw & Chickasaw Nations. The tract of land is located in Section 3, Township 3 North, Range 21 East, Latimer County, OK. This lease was negotiated directly with the Choctaw Nation of Oklahoma for the site of the Talihina Data Center. The need for an appraisal or other valuation method along with a compensation review is being waived since no payment is being required. Also being waived are the requirements for a performance bond and insurance.

Title of Council Bill: TO APPROVE BUSINESS LEASE NO. 4200337498 (G09-2017) ON LAND HELD BY THE USA IN TRUST FOR THE CHOCTAW AND CHICKASAW NATIONS IN LATIMER COUNTY, OKLAHOMA

Grantee: Choctaw Nation of Oklahoma

Duration: Twenty-five (25) years with an automatic option to renew for an additional twenty-five (25) years

Payment: \$0.00 per year

Request by Project Director: Traci Umsted, Senior Director of Land & Title, Kelly McKaughan, Senior Executive Officer

EXHIBIT A

Performance Bond: \$00.00-WAIVED
Administrative Fee: \$00.00-WAIVED
Annual Rental: \$00.00

Beginning Date: May 1, 2022
Expiration Date: April 30, 2072

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

BUSINESS LEASE

LEASE NUMBER: 4200337498 (G09-2017)
LESSEE: Choctaw Nation of Oklahoma

LANDOWNER: USA in Trust for the
Choctaw & Chickasaw Nations

THIS CONTRACT, made and entered into on April 11, 2022, by and between the Indian or Indians named below (the Secretary of the Interior acting for and on behalf of the Indians), hereinafter called the "Lessor", and the **Choctaw Nation of Oklahoma, P.O. Box 1210, Durant, Oklahoma**, hereinafter called the "Lessee", in accordance with the provisions of existing law and the regulations (25 CFR Part 162) which be reference is made a part thereof.

WITNESSETH, that for and in consideration of the rents, covenants, and agreements hereinafter provided, the Lessor hereby lets and leases unto the Lessee for the purposes of developing, constructing, operating, and maintaining the **Talihina Data Center**.

The land and premises are in Latimer County, Oklahoma, and described as follows:

A tract of land located in the SW $\frac{1}{4}$ of Section 3, Township 3 North, Range 21 East of the Indian Base and Meridian, Latimer County, State of Oklahoma, according to the United States Government survey thereof, being more particularly described as follows:

Beginning at the Northeast Corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$; thence South 01°13'04" East and along the East line of said SW $\frac{1}{4}$, for a distance of 580.68 feet, thence North 88°00'29" West, for a distance of 286.50 feet, thence North 01°59'31" East, for a distance of 563.30 feet to a point on the North line of said SE $\frac{1}{4}$ SW $\frac{1}{4}$; thence continuing North 01°59'31" East, for a distance of 63.38 feet; thence South 88°00'29" East, for a distance of 251.35 feet to a point on the East line of said SW $\frac{1}{4}$; thence South 01°13'04" East and along said East line, for a distance of 46.99 feet to the Point of Beginning.

The lease will be for an initial term of **twenty-five (25) years with an automatic renewal term of twenty-five (25) years**. The lease will begin on **May 1, 2022**, and expire on **April 30, 2072**, subject to the conditions hereafter set forth. The lessee, in consideration of the foregoing covenants, agrees to pay the following annual rental for the land and premises (annual rental, due dates and any expenses to be borne by the Lessor are to be specified in full). Pay administrative fee to: Choctaw Nation of Oklahoma, PO Box 1210, Durant, OK 74702-1210. Pay bond and rent to: Talihina Agency-BIA, Dept C185, PO Box 979121, St Louis, MO 63197-9000.

<u>To</u>	<u>Interest</u>	<u>Date Payable</u>	<u>Amount</u>
Choctaw Nation of Oklahoma	$\frac{3}{4}$	May 1, 2022-2071	\$00.00
Chickasaw Nation	$\frac{1}{4}$	May 1, 2022-2071	\$00.00

In the event of the death of any of the owners to whom under the terms of this lease rentals are to be paid direct, all rentals remaining due and payable shall be paid to the official of the Bureau of Indian Affairs having jurisdiction over the leased premises. This provision is applicable only while the leased premises are in Trust or Restricted status.

This lease is subject to the following provisions:

1. "SECRETARY" as used herein means the Secretary of the Interior or his authorized representative.
2. US/WE/ARE – as used herein, means the Secretary or Bureau of Indian Affairs (BIA) and any Tribe acting on behalf of the Secretary or BIA.
3. APPROVAL. It is further understood and agreed between the parties hereto that this lease shall be valid and binding only after approval by the Secretary.
4. PAYMENT OF RENT – Rental payments must be made in accordance with the payment schedule contained herein. Unless otherwise provided in the lease, rent payments may not be made or accepted more than one year in advance of the due date. Rent payments are due at the time specified in the lease, regardless of whether the Lessee receives an advance billing or other notice that a payment is due. If the lease provides for payment to be made directly to the Indian landowners, the form of payment must be acceptable to the Indian landowners. The lessee must retain specific documentation evidencing proof of payment. Upon request, the lessee agrees to submit proof of payments to the approving officer, in the form of canceled checks, cash receipt vouchers, or copies of money orders or cashier's checks. Such proof of payment may cover any or all rents due and payable under the terms of this lease contract. Rent payments made directly to the Indian landowners must be made to the parties specified in the lease, unless the tenant receives notice of a change of ownership. Unless otherwise provided in the lease, rent payments may not be made payable directly to anyone other than the Indian landowners.

While the leased premises are in Trust or Restricted status, the Secretary may, in his discretion, and upon notice to the Lessee, suspend direct rental payment provisions of this lease in which the rental payments shall be paid to the official of the Bureau of Indian Affairs, if:

- (a) The Lessor(s) dies;
 - (b) The Lessor(s) requests rental payments to be deposited and posted into his or her trust account instead of having the funds directly paid;
 - (c) The Lessor(s) is found to be in need of assistance in managing or administering his or her property, including his or her financial affairs as determined by a court of competent jurisdiction or another federal agency where the federal agency has determined that the Lessor(s) requires assistance in managing or administering his or her financial affairs; or
 - (d) After the Secretary makes an evaluation and determines that the direct payments should be discontinued after consultation with the Lessor(s).
5. COMPENSATION REVIEW – The Lessors have agreed to waive the need for compensation review.
 6. INTEREST – It is understood and agreed between the parties hereto that in the event that any installment of rental is not paid within ten (10) days after becoming due, interest at the rate of twelve percent (12%) per annum upon such delinquent installment of rental will become due and payable from the date such rental became due until paid. Unless otherwise provided in the lease, such interest

charges and late penalties will apply in the absence of any specific notice to the Lessee from us, and the failure to pay such amounts will be treated as a lease violation.

7. **SPECIAL FEES** – The following special fees will be assessed to cover administrative costs incurred by us in collection of the debt if rent is not paid in the time and manner required, in addition to any interest that must be paid to the Indian landowners.

Lessee will pay:	For:
(a)\$50.00	Any dishonored check
(b)\$15.00	Processing of each notice or demand letter
(c)18% of balance due	Treasury processing following referral for collection of delinquent debt.
8. **IMPROVEMENTS** – Unless otherwise provided herein, it is understood and agreed that any buildings or other improvements placed upon the said land by the Lessee become the property of the lessor and will remain on the leased premises upon the expiration or termination of the lease, providing it is in a condition satisfactory to the Indian landowners and us.
9. **DUE DILIGENCE.** If permanent improvements are to be constructed, the lessee is required to complete construction of any permanent improvements within the schedule specified in the lease or general schedule of construction, and a process for changing the schedule by mutual consent of the parties. If construction does not occur, or is not expected to be completed within the time period specified in the lease, the lessee must provide the Indian landowners and BIA with an explanation of good cause as to the nature of any delay, the anticipated date of construction of facilities, and evidence of progress toward commencement of construction. Failure to comply with these requirements will be considered a lease violation and may lead to lease cancellation.
10. **INSURANCE.** Lessee must provide insurance necessary to protect the interests of the Indian landowners and in the amount the amount sufficient to protect all insurable permanent improvements on the premises. The insurance may include property, crop, liability and casualty insurance, depending on the Indian landowners' interests to be protected. Both the Indian landowners and the United States must be identified as additional insured parties. The Lessors have agreed to WAIVE this requirement.
11. **BOND** – The Lessee shall furnish such bond as may be required by the Secretary with satisfactory surety to guarantee compliance with the terms of this lease. Lessee must obtain the consent of the surety for any legal instrument that directly affects their obligations and liabilities. The Lessors have agreed to WAIVE this requirement.
12. **UPON WHOM BINDING** – It is understood and agreed that the covenants and agreements hereinbefore mentioned shall extend to and be binding upon the heirs, assigns, executors, and the administrators of the parties of this lease. The obligations of the Lessee and its sureties to the Indian landowners are also enforceable by the United States, so long as the land remains in trust or restricted status.
13. **UNLAWFUL CONDUCT** – The Lessee agrees that there must not be any unlawful conduct, creation of nuisance, illegal activity, or negligent use or waste of the leased premises.
14. **COMPLIANCE WITH LAWS** – Lessee must comply with all applicable Federal, Tribal, State, and Local laws, ordinances, rules, regulations, and other legal requirements.
15. **DISCOVERY CLAUSE.** If historic properties, archeological resources, human remains, or other cultural items not previously reported are encountered during the course of any activity associated with this lease, all activity in the immediate vicinity of the properties, resources, remains, or items will cease and

the lessee will contact BIA and the tribe with jurisdiction over the land to determine how to proceed and appropriate disposition.

16. **ENTRY ON PREMISES.** The BIA or the landowners have the right, at any reasonable time during the term of the lease and upon reasonable notice, to enter the leased premises for inspection and to ensure compliance. When locks are placed on gates, keys must be furnished to the BIA or Tribe with jurisdiction over the land.
17. **VIOLATION OF LEASE.** It is understood and agreed that violations of this lease shall be acted upon in accordance with the regulations in 25 CFR 162. BIA may, at its discretion, treat as a lease violation any failure by the lessee to cooperate with a BIA request to make appropriate records, reports, or information available for BIA inspection and duplication. We may treat any provision of a lease document that violates Federal law as a violation of the lease.
18. **INDEMNITY** – Unless the Lessee would be prohibited by law from doing so, the Lessee agrees to hold the United States and the Indian landowners harmless from any loss, liability, or damages resulting from the Lessee's use or occupation of the leased premises; and the Lessee also agrees to indemnify the United States and the Indian landowners against all liabilities or costs relating to the use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials, or the release or discharge of any hazardous materials from the leased premises that occurs during the lease term, regardless of fault, with the exception that the Lessee is not required to indemnify the Indian landowners for liability or cost arising from the Indian landowners' negligence or willful misconduct
19. **UNAUTHORIZED USE** – Any use of the leased premises for an unauthorized purpose, or a failure of the Lessee to maintain continuous operations throughout the lease term, will be treated as a lease violation.
20. **CARE OF PREMISES** – It is understood and agreed that the Lessee is to keep the premises covered by this lease in good repair. He shall not commit or permit to be committed any waste whatsoever on said premises. He shall not destroy or permit to be destroyed any trees, except with the consent of the Lessor and the approval of the Secretary.
21. **AMENDMENTS, ASSIGNMENTS, AND SUBLEASES** – Unless otherwise provided herein, amendments, assignments, subleases, or mortgages of the leasehold interests are authorized, but only with the written consent of the parties to the lease in the same manner the original lease was approved and with the approval of the Secretary.
22. **PAYMENT RIGHTS AND OBLIGATIONS** – Unless otherwise provided, the Indian landowners will be entitled to receive any settlement funds or other payments arising from certain actions that diminish the value of the land or the improvements thereon. Such payments may include: (a) insurance proceeds; (b) trespass damages; and (c) condemnation awards.
23. **RESERVATIONS** – It is understood and agreed that the Lessor reserves the right to make mineral, signboard, industrial, sand and gravel leases and/or permits, and to grant rights-of-ways and other legal grants on the premises covered by this lease. In the event such a lease or grant is made, the Lessee hereunder shall be entitled to damages for the actual loss sustained by him on account of said lease or grant, and to nothing more. The period for which damages may be claimed by the Lessee is limited to the lease year the damage occurred. It is further understood that in the event of a dispute between the lessor hereunder and the lessee, grantee or permittee under any mineral, business, signboard, industrial or sand and gravel permit or lease or right of way and other grant, as to the amount of actual

damages, the matter will be referred to the Secretary who shall be the sole and final judge as to the amount of the said damages incurred.

24. ASSENT NOT WAIVER OF FUTURE BREACH OF COVENANTS – No assent, expressed or implied, to any breach of any of the Lessee's covenants, shall be deemed to be a waiver of any succeeding breach of covenants.
25. VALIDITY – This lease, and any modification of or amendment to this lease, shall not be valid or binding upon either party hereto until approved by the Secretary.
26. SEISMOGRAPH EXPLORATION – The lessee shall not prohibit entry by a seismograph company nor be entitled to payment except for actual damages which may be sustained resulting from such seismograph work as specified in the basic lease contract.
27. RELINQUISHMENT OF SUPERVISION BY THE SECRETARY. Nothing contained in this lease shall operate to delay or prevent a termination of Federal Trust responsibilities with respect to the land by the issuance of a fee patent or otherwise during the term of the lease; however, such termination shall not serve to abrogate the lease. The owners of the land and the Lessee and his surety or sureties shall be notified by the Secretary of any such change in the status of the land.
28. INTEREST OF MEMBER OF CONGRESS. No member of, or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise here from, this provision shall not be construed to extend to this contract if made with a corporation or company for its general benefit.
29. RESERVED RIGHTS. The lessor reserves unto himself the right to gather all native nuts and fruits and the right to engage in lawful hunting and fishing. Timber and timber products are also reserved by the lessor.
30. SURRENDER CLAUSE. In the event that the leased lands or any part thereof are included within a defined area for public purposes by an acquiring agency having the right of eminent domain, it is agreed that the said premises included within the taking area will be surrendered and the lease canceled by the lessee upon written notice by the approving officer. Such cancellation and surrender of the premises or part thereof, because of public taking, will be accomplished at the discretion of the approving officer at the end of the then current lease year on non-cultivated land.
31. ABANDONMENT – If a lessee abandons the leased premises, the lessee and its sureties will not be relieved of the obligations contained in the lease.
32. IN THE EVENT OF SALE – In the event any or all of this property should sell during the term of this lease, the Lessee agrees to relinquish possession at the end of the calendar year from the date of such sale. It is further agreed in the event of the relinquishment as provided above, the Lessor shall refund to the Lessee, the unused portion of any rental which may have been advanced prior to the date of sale. Reimbursement to Lessee for improvements, the value of which was included in consideration of the lease, will be made on a prorated basis provided such improvements are completed prior to the relinquishment date. If the improvements have not been accomplished, the Lessee will be charged on a prorated basis for the period of time that has elapsed to the relinquishment date.
33. DUMPING - The placing or dumping of junk, trash or carrion, rocks or other rubbish or waste is prohibited. The Lessee will be liable and will be required to repair or make reimbursement for any damage that may be done to the premises or actual cost of cleanup, whichever is greater.

34. OFF-ROAD VEHICLE USE (Trail-Blazing Restriction). Off-road vehicle travel is limited to emergency situations. ATV's will use existing trails and roads when possible. No new trail will be established.

SPECIFIED PRACTICES: ATTACHMENT 1

- 1. DESTRUCTION BY FIRE - It is understood and agreed that the Lessee will practice fire control on all lands covered under this lease and will in no way interfere with Federal, State and County officers engaged in emergency fire suppression efforts being conducted in accordance with applicable laws. Prescribed burning will be conducted only with the approval of the Regional Director or his designated representative and will be conducted in compliance with all applicable laws. (PENALTY: Twice the appraised value of damage as determined by the Regional Director or his representative)

IN WITNESS WHEREOF, the Lessee has hereunto subscribed his name on behalf of the Choctaw Nation of Oklahoma and has hereunto caused to have his legal acceptance.

Lessee: **Gary Batton, Chief**
Choctaw Nation of Oklahoma

State of OKLAHOMA
County of _____ §

Before me, a Notary Public, in and for said County and State, on this ____ day of _____, 20____, do certify that Gary Batton, Chief of the Choctaw Nation of Oklahoma, personally appeared before me and acknowledged the due execution of the foregoing instrument.

Notary Public

My Commission expires: _____

Approved:

Pursuant to 25 CFR 162.441 and under authority delegated by 209 DM 8, 230 DM 1, 3 IAM 4, and Eastern Oklahoma Region Memorandum of Delegation issued June 23, 2021.

**Superintendent, Talihina Agency
Bureau of Indian Affairs**

Date: _____

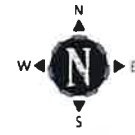
EXHIBIT B

GENERAL NOTES

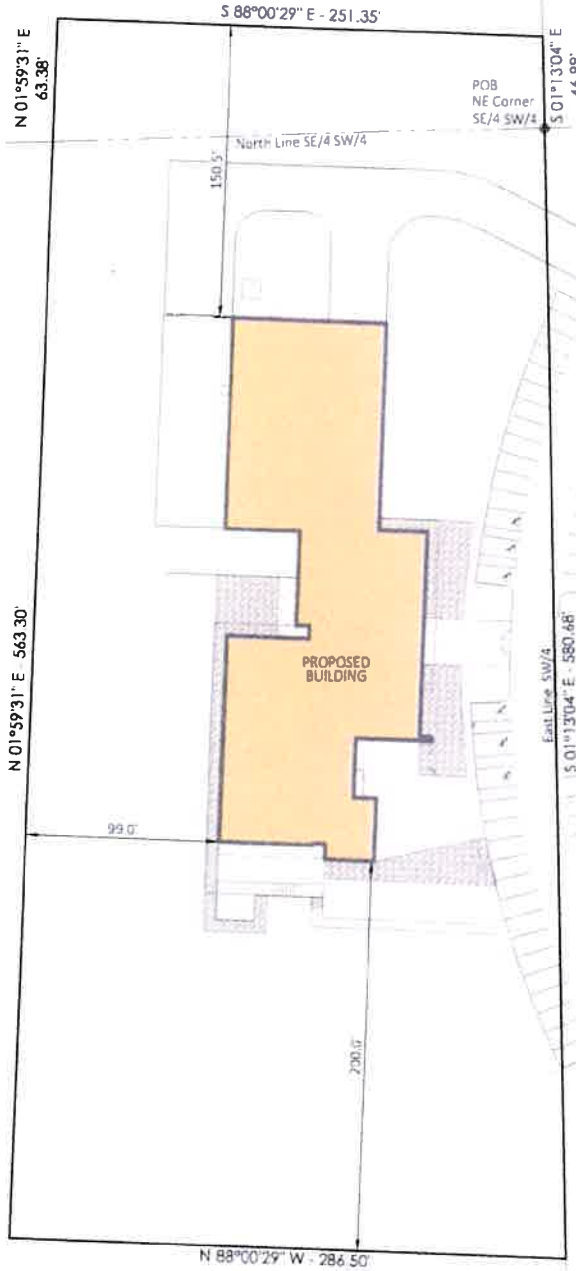
- The bearings shown hereon are based upon the Oklahoma State Plane Coordinate System, South-South 3502 NAD 1983 (1993).
- The property described hereon contains 136.385 ± ac. ± 0.155 acres more or less.

EXHIBIT

OF: A tract of land located in the Southwest Quarter (SW/4) of Section Three (3), Township Three (3) North, Range Twenty-One (21) East of the Indian Base and Meridian, Latimer County, State of Oklahoma



LOCATION MAP



LEGAL DESCRIPTION OF THE REAL PROPERTY

A tract of land located in the Southwest Quarter (SW/4) of Section Three (3), Township Three (3) North, Range Twenty-One (21) East of the Indian Base and Meridian, Latimer County, State of Oklahoma, according to the United States Government Survey thereof being more particularly described as follows:

BEGINNING at the Northeast corner of the SW/4 SW/4, thence South 01°13'04" East and along the East line of said SW/4 for a distance of 580.68 feet, thence North 88°00'29" West, for a distance of 286.50 feet, thence North 01°59'31" East, for a distance of 563.30 feet to a point on the North line of said SW/4 SW/4, thence continuing North 01°59'31" East for a distance of 63.38 feet, thence South 88°00'29" East, for a distance of 251.35 feet to a point on the East line of said SW/4, thence South 01°13'04" East and along said East line for a distance of 46.99 feet to the **POINT OF BEGINNING**.

SURVEYORS CERTIFICATE

I, Nathaniel J. Reed of the State of Oklahoma, and a Professional Surveyor do hereby certify that the above shown survey is true and correct to the best of my knowledge.

WITNESS my hand and seal this 17th day of February, 2017.

Nathaniel J. Reed
NATHANIEL J. REED
 PROFESSIONAL LAND SURVEYOR
 No. P.L.S. 17443

NATHANIEL J. REED
 STATE OF OKLAHOMA
SURVEYING ENGINEERING, LLC
 A Self-Insured Retention Business
 401 West Street Road, Suite A, Tulsa, Oklahoma 74116
 Telephone: 918.734.7596 Fax: 918.883.3142
 Expires: June 30, 2022

48 HOURS BEFORE YOU DIG, CALL OKIE
 1-800-322-6343
 okie.org

DATE	BY	REVISION

NO.	DATE	BY	REVISION

EXHIBIT

