

RESOLUTION NO. 29717

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A DECLARATION OF RESTRICTIVE COVENANTS, IN SUBSTANTIALLY THE FORM ATTACHED, FOR SEVEN (7) CITY-OWNED PARCELS LOCATED IN THE FLOODWAY AND IDENTIFIED AS TAX PARCEL NUMBER 117C-A-009 AT 1134 MOUNTAIN CREEK ROAD; TAX PARCEL NUMBER 117P-C-006 AT NORMAN LANE; TAX PARCEL NUMBER 117P-C-027 AT 108 SIGNAL HILLS DRIVE; TAX PARCEL NUMBER 117P-C-028 AT SIGNAL HILLS DRIVE; TAX PARCEL NUMBER 117P-C-030 AT SIGNAL HILLS DRIVE; TAX PARCEL NUMBER 117P-C-032 AT NORMAN LANE; AND TAX PARCEL NUMBER 117O-A-011.03 AT 832 MOUNTAIN CREEK ROAD.

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BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE, that it is hereby authorizing the Mayor to execute a Declaration of Restrictive Covenants, in substantially the form attached, for seven (7) City-owned parcels located in the floodway and identified as Tax Parcel Number 117C-A-009 at 1134 Mountain Creek Road; Tax Parcel Number 117P-C-006 at Norman Lane; Tax Parcel Number 117P-C-027 at 108 Signal Hills Drive; Tax Parcel Number 117P-C-028 at Signal Hills Drive; Tax Parcel Number 117P-C-030 at Signal Hills Drive; Tax Parcel Number 117P-C-032 at Norman Lane; and Tax Parcel Number 117O-A-011.03 at 832 Mountain Creek Road.

ADOPTED: November 27, 2018

/mem

This Instrument Prepared By:  
**Valerie L. Malueg, Esq.**  
**Office of the City Attorney**  
**100 E. 11<sup>th</sup> Street, Suite 200**  
**Chattanooga, TN 37402**

**DECLARATION OF RESTRICTIVE COVENANTS**

The City of Chattanooga, a Tennessee municipal corporation, does hereby impose the following Restrictive Covenants upon the properties described in **Exhibit "A"**, attached hereto and made a part hereof, as Covenants running with this land:

1. Disturbance of Natural Features. There shall be no change, disturbance, alteration or impairment of the natural features. There shall be no change in topography of the land and no alteration of the restored, enhanced or created drainage patterns.
2. Vegetation. Unauthorized cutting, removal, harming, or destruction of any trees, shrubs, or other vegetation is prohibited. Removal of dead, diseased or damaged trees and non-native species is allowed with approval of the City of Chattanooga. Mowing is prohibited. There shall be no unauthorized introduction of new plant or animal species. Livestock grazing is prohibited.
3. Signage. No signs shall be permitted, except the posting of no trespassing signs, way finding signs, or signs for educational and interpretive purposes.
4. Subdivision. Subdivision of the property described in Exhibit "A" is prohibited.
5. Dumping or Storage. Dumping or storage of leaves, grass clippings, soil, trash, ashes, abandoned vehicles, appliances, machinery or hazardous substances, or toxic or hazardous waste or similar items is prohibited.

This instrument complies with T.C.A. § 66-1-202 and the terms of which are incorporated herein by reference.

IN WITNESS WHEREOF the City of Chattanooga, a Tennessee municipal corporation, has set its hand as of \_\_\_\_\_, \_\_\_\_\_, 2018.

THE CITY OF CHATTANOOGA

BY: \_\_\_\_\_  
ANDY BERKE, Mayor

STATE OF TENNESSEE  
COUNTY OF HAMILTON

Before me, a Notary Public in and for the state and county aforesaid, personally appeared Andy Berke, to me known (or proved to me on the basis of satisfactory evidence) to be the MAYOR of **THE CITY OF CHATTANOOGA**, the within named bargainer, a municipal corporation, who acknowledged that he executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as MAYOR.

WITNESS my hand at office, this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
My commission expires

EXHIBIT A

IN THE CITY OF CHATTANOOGA, HAMILTON COUNTY, TENNESSEE: Beginning at a point in the Eastern line of Mountain Creek Road, said point being the Northwestern corner of Lot 5, Resubdivision of Lot 4, Kmart Subdivision on Mountain Creek Road - Lots 4 and 5 as shown by plat of record in Plat Book 35, Page 228, in the Register's Office of Hamilton County, Tennessee; thence North 01 degree, 16 minutes East 157.51 feet along the Eastern line of Mountain Creek Road to its point of intersection with the Southeastern curved line of Commercial Lane, as shown by plat of Mountain Creek Commercial Park, recorded in Plat Book 41, Page 156, and by corrective plat of record in Plat Book 41, Page 422, in the Register's Office of Hamilton County, Tennessee; thence Northeastwardly along the southeastern curved line of Commercial Lane, the curve having a radius of 25 feet, an arc distance of 39.27 feet to a point, the end of said curve; thence South 88 degrees 50 minutes East continuing along the Southern line of said Commercial Lane, 420.08 feet to a point; thence continuing along the Southern curved line of Commercial Lane, having a radius of 50 feet, an arc distance of 36.14 feet to the end of said curve; thence along the line of Commercial Lane South 70 degrees 28 minutes 27 seconds East 50 feet to a point in the Western line of Lot 3, of Mountain Creek Commercial Park; thence along the Western line of said Lot No. 1, South 19 degrees 31 minutes 31 seconds West, 52.63 feet to the Southwestern corner thereof; thence along the Southern line of said Lot No. 1, South 74 degrees 45 minutes East 360.14 feet to the Southeastern corner of said lot; thence along the Eastern line of said Lot No. 1, North 19 degrees 31 minutes 31 seconds East, 340.03 feet to the Northeastern corner of Lot No. 1, said corner lying in the Southern line of property conveyed to SEC Realty Corp. by deed of record in Book 1181, Page 653, in the Register's Office of Hamilton County, Tennessee; thence South 74 degrees 45 minutes East, along the Southern line of said SEC Realty Corp. property, 450.00 feet to a point in the center line of Mountain Creek; thence Southwardly along the meanderings of the said center line of Mountain Creek, 684 feet, more or less, to a point (the meanderings of the center line of Mountain Creek being subtended by the following chords or traverse lines: South 10 degrees 16 minutes West, 186.73

feet; South 31 degrees 04 minutes West, 167.30 feet; South 38 degrees 12 minutes West, 124.12 feet); thence North 85 degrees 09 minutes 30 seconds West, to and along the Northern line of the aforesaid Resubdivision of Lot 4, Kmart Subdivision, a total distance of 1112.94 feet to point of beginning.

EXCLUDING THEREFROM the gas, oil, sulfur and all other minerals, condensate, casing head gas, and other gaseous substances, as reserved and retained in Deed from Annie Talley Phillips, et al, to John W. McLaughlin and wife, Dorothy E. McLaughlin, dated the 10th day of June, 1971, recorded in Book 2117, Page 896, in the Register's Office of Hamilton County, Tennessee, with the perpetual easements, rights and privileges appurtenant thereto, all as set forth and provided for in said Deed.

SUBJECT TO slope and drainage easement reserved by Grantor along the western boundary of the Property of record in Deed Book 1968, Page 216 ROHC.

SUBJECT TO all governmental zoning and building laws and subdivision ordinances.

SUBJECT TO other encumbrances, easements or encroachments of record or discernible from a visual inspection or survey of the Property.

Pacific Railway Company (100' R/W), having Tennessee Grid Coordinates N-276926.035, E-2168656.559, Tax Map #126, Group A, Parcel #001, and being the common southeastern corner of Baylor School, Deed Book 2174, page 971; thence leaving said right-of-way and with the common line of Baylor School N 4-03-32 W for 1057.30 feet to a Point located in the centerline of Mountain Creek; thence with the centerline of Mountain Creek N 47-33-29 E for 54.54 feet to a Point; thence N 18-13-53 E for 300.36 feet to a Point; thence N 48-14-39 E for 35.92 feet to a Point; thence N 64-19-30 E for 47.82 feet to a Point; thence N 46-35-43 E for 30.47 feet to a Point; thence N 06-37-07 E for 32.47 feet to a Point; thence N 39-02-01 W for 37.44 feet to a Point; thence N 33-03-06 W for 69.15 feet to a Point; thence N 10-05-53 E for 24.50 feet to a Point; thence N 51-18-44 E for 22.40 feet to a Point; thence N 87-06-18 E for 47.88 feet to a Point; thence S 76-22-36 E for 16.89 feet to a Point; thence S 75-04-58 E for 70.09 feet to a Point; thence N 21-44-37 E for 37.06 feet to a Point; thence N 24-58-33 E for 66.71 feet; thence N 30-19-40 E for 47.53 feet to a Point; thence N 26-45-54 E for 19.27 feet to a Point; thence N 20-49-49 W for 35.92 feet to a Point; thence N 80-05-18 W for 16.53 feet to a Point; thence N 49-37-37 W for 34.19 feet to a Point; thence N 16-33-31 W for 17.51 feet to the Point of Beginning; thence leaving the centerline of Mountain Creek with the common line of Baylor School, Deed Book 2174, page 0971 N 77-07-08 W for 523.10 feet to an Iron Pin located on the common line of Signal Hills Subdivision Addition; thence with said common line N 31-35-48 E for 446.31 feet to an Iron Pin; thence along an Unopened Street (unimproved) S 56-40-56 E for 465.85 feet to a Point on the centerline of Mountain Creek; thence with the centerline of Mountain Creek S 31-27-14 E for 16.79 feet to a Point; thence S 06-04-41 E for 17.78 feet to a Point; thence S 05-27-52 W for 24.61 feet to a Point; thence S 50-31-07 W for 29.18 feet to a point; thence S 88-51-33 W for 38.10 feet to a Point; thence S 63-26-02 W for 65.75 feet to a Point; thence S 06-47-48 W for 49.02 feet to a Point; thence S 03-35-01 W for 61.54 feet to a Point; thence S 16-33-31 E for 26.67 feet to the Point of Beginning containing 167,698 Sq. Ft. or 3.850 Acres more or less.

Tract 2 (Lot 4 on survey by William C. Canon, TRLS #1949, dated 07-01-04, Project #55397):

Commencing at a PK Nail located on the western right-of-way of Cincinnati, New Orleans and Texas Pacific Railway Company (100' R/W), having Tennessee Grid Coordinates N-276926.035, E-2168656.559, Tax Map #126, Group A, Parcel #001, and being the common southeastern corner of Baylor School, Deed Book 2174, page 971; thence leaving said right-of-way and with the common line of Baylor School N 4-03-32 W for 1057.30 feet to a Point located in the centerline of Mountain Creek; thence with the centerline of Mountain Creek N 47-33-29 E for 54.54 feet to a Point; thence N 18-13-53 E for 300.36 feet to a Point;

thence N 48-14-39 E for 35.92 feet to a Point; thence N 64-19-30 E for 47.82 feet to a Point; thence N 46-35-43 E for 30.47 feet to a Point; thence N 06-37-07 E for 32.47 feet to a Point; thence N 39-02-01 W for 37.44 feet to a Point; thence N 33-03-06 W for 69.15 feet to a Point; thence N 10-05-53 E for 24.50 feet to a Point; thence N 51-18-44 E for 22.40 feet to a Point; thence N 87-06-18 E for 47.88 feet to a Point; thence S 76-22-36 E for 16.89 feet to a Point; thence S 75-04-58 E for 70.09 feet to a Point; thence N 21-44-37 E for 37.06 feet to a Point; thence N 24-58-33 E for 66.71 feet; thence N 30-19-40 E for 47.53 feet to a Point; thence N 26-45-54 E for 19.27 feet to a Point; thence N 20-49-49 W for 35.92 feet to a Point; thence N 80-05-18 W for 16.53 feet to a Point; thence N 49-37-37 W for 34.19 feet to a Point; thence N 16-33-31 W for 17.51 feet to a Point; thence N 16-33-31 W for 26.67 feet to a Point; thence N 03-35-01 E for 61.54 feet to a Point; thence N 06-47-48 E for 49.02 feet to a Point; thence N 63-26-02 E for 65.75 feet to a Point; thence N 88-51-33 E for 38.10 feet to a Point; thence N 50-31-07 E for 29.18 feet to a Point; thence N 05-27-52 E for 24.61 feet to a point; thence N 06-04-41 W for 17.78 feet to a Point; thence N 31-27-14 W for 16.79 feet to a Point; thence N 31-27-14 W for 50.61 feet to a Point; thence N 40-25-17 E for 28.65 to the Point of Beginning; thence along an Unopened Street (unimproved) N 56-40-56 W for 425.11 feet to an Iron Pin located on the common line of Signal Hills Subdivision Addition; thence with said common line N 31-35-48 E for 47.91 feet to an Iron Pin; thence N 33-59-59 E for 50.20 feet to an Iron Pin; thence N 31-54-47 E for 75.51 feet to an Iron Pin; thence N 68-48-11 E for 30.64 feet to an Iron Pin; thence S 58-11-00 E for 149.92 feet to an Iron Pin; thence N 02-38-29 W for 120.20 feet to an Iron Pin; thence N 28-01-27 W for 5.58 feet to an Iron Pin; thence N 68-41-16 E for 115.63 feet to an Iron Pin; thence N 66-35-40 E for 243.37 feet to an Iron Pin located on the common line of Nick G. and Bonnie C. Keef, Jr., Deed Book 2096, page 0529; thence with said common line S 07-40-54 E for 510.56 feet to a Point located on the centerline of Mountain Creek; thence with the centerline of Mountain Creek S 68-49-10 W for 4.70 feet to a Point; thence S 66-15-02 W for 50.46 feet to a Point; thence N 69-56-33 W for 55.22 feet to a Point; thence N 36-43-51 W for 54.31 feet to a Point; thence N 59-39-34 W for 17.11 feet to a Point; thence N 86-40-09 W for 12.83 feet to a Point; thence S 54-19-13 W for 38.35 feet to a Point; thence S 40-20-31 W for 28.07 feet to a Point; thence S 46-41-01 W for 59.53 feet to a Point; thence S 40-25-17 W for 46.02 feet to the Point of Beginning containing 208,940 Sq. Ft. or 4,797 Acres more or less.

Tract 3 (Lot 5 on survey by William C. Canon, TRLS #1949, dated 07-01-04, Project #55397):

Commencing at a PK Nail located on the western right-of-way of Cincinnati, New Orleans and Texas Pacific Railway Company (100' R/W), having Tennessee Grid Coordinates N-276926.035, E-2168656.559, Tax Map #126, Group A, Parcel #001, and being the common southeastern corner of Baylor School, Deed Book 2174, page 971; thence leaving said right-of-way and with the common line of Baylor School N 4-03-32 W for 1057.30 feet to a Point located in the centerline of Mountain Creek; thence with the centerline of Mountain Creek N 47-33-29 E for 54.54 feet to a Point; thence N 18-13-53 E for 300.36 feet to a Point; thence N 48-14-39 E for 35.92 feet to a Point; thence N 64-19-30 E for 47.82 feet to a Point; thence N 46-35-43 E for 30.47 feet to a Point; thence N 06-37-07 E for 32.47 feet to a Point; thence N 39-02-01 W for 37.44 feet to a Point; thence N 33-03-06 W for 69.15 feet to a Point; thence N 10-05-53 E for 24.50 feet to a Point; thence N 51-18-44 E for 22.40 feet to a Point; thence N 87-06-18 E for 47.88 feet to a Point; thence S 76-22-36 E for 16.89 feet to a Point; thence S 75-04-58 E for 70.09 feet to a Point; thence N 21-44-37 E for 37.06 feet to a Point; thence N 24-58-33 E for 66.71 feet; thence N 30-19-40 E for 47.53 feet to a Point; thence N 26-45-54 E for 19.27 feet to a Point; thence N 20-49-49 W for 35.92 feet to a Point; thence N 80-05-18 W for 16.53 feet to a Point; thence N 49-37-37 W for 34.19 feet to a Point; thence N 16-33-31 W for 17.51 feet to a Point; thence N 16-33-31 W for 26.67 feet to a Point; thence N 03-35-01 E for 61.54 feet to a Point; thence N 06-47-48 E for 49.02 feet to a Point; thence N 63-26-02 E for 65.75 feet to a Point; thence N 88-51-33 E for 38.10 feet to a Point; thence N 50-31-07 E for 29.18 feet to a Point; thence N 05-27-52 E for 24.61 feet to a point; thence N 06-04-41 W for 17.78 feet to a Point; thence N 31-27-14 W for 16.79 feet to a Point; thence N 31-27-14 W for 50.61 feet to a Point; thence N 40-25-17 E for 28.65 to a Point; thence N 40-25-17 E for 46.02 feet to a Point; thence N 46-41-01 E for 59.53 to a Point; thence N 40-20-31 E for 28.07 feet to a Point; thence N 54-19-13 E for 38.35 feet to a Point; thence S 86-40-09 E for 12.83 feet to a Point; thence S 59-39-34 E for 17.11 feet to a Point; thence S 36-43-51 E for 54.31 feet to a Point; thence S 69-56-33 E for 55.22 feet to a Point; thence N 66-15-02 E for 50.46 feet to a Point; thence N 68-49-10 E for 4.70 feet to a Point; thence N 68-49-10 E for 38.29 feet to a Point; thence N 40-40-24 E for 17.09 feet to the Point of Beginning; thence with the common line of Nick G. and Bonnie C. Keef, Jr., Deed Book 2096, page 0529 N 07-40-54 W for 504.34 feet to an Iron Pin located on the common line of Signal Hills Subdivision Addition; thence with said common line N 66-35-40 E for 103.89 feet to an Iron Pin, thence with the common line of an Unopened Street (unimproved) S 07-40-54 E for 466.16 feet to a Point located on the centerline of Mountain Creek; thence with the centerline of Mountain Creek S 74-29-04 W for 44.89 feet to a Point; thence S 27-33-47 W for 25.85 feet to a Point; thence S 36-16-11 W for 29.14 feet to a Point; thence S 40-40-24 W for 27.28 to the Point of Beginning containing 47,524 Sq. Ft. or 1.091 Acres more or less.

Tract 4 (Lot 6 on survey by William C. Canon, TRLS #1949, dated 07-01-04, Project #55397):

Commencing at a PK Nail located on the western right-of-way of Cincinnati, New Orleans and Texas Pacific Railway Company (100' R/W), having Tennessee Grid Coordinates N-276926.035, E-2168656.559, Tax Map #126, Group A, Parcel #001, and being the common southeastern corner of Baylor School, Deed

Book 2174, page 971; thence leaving said right-of-way and with the common line of Baylor School N 54-03-32 W for 1057.30 feet to a Point located in the centerline of Mountain Creek; thence with the centerline of Mountain Creek N 47-33-29 E for 54.54 feet to a Point; thence N 18-13-53 E for 300.36 feet to a Point; thence N 48-14-39 E for 35.92 feet to a Point; thence N 64-19-30 E for 47.82 feet to a Point; thence N 46-35-43 E for 30.47 feet to a Point; thence N 06-37-07 E for 32.47 feet to a Point; thence N 39-02-01 W for 37.44 feet to a Point; thence N 33-03-06 W for 69.15 feet to a Point; thence N 10-05-53 E for 24.50 feet to a Point; thence N 51-18-44 E for 22.40 feet to a Point; thence N 87-06-18 E for 47.88 feet to a Point; thence S 76-22-36 E for 16.89 feet to a Point; thence S 75-04-58 E for 70.09 feet to a Point; thence N 21-44-37 E for 37.06 feet to a Point; thence N 24-58-33 E for 66.71 feet; thence N 30-19-40 E for 47.53 feet to a Point; thence N 26-45-54 E for 19.27 feet to a Point; thence N 20-49-49 W for 35.92 feet to a Point; thence N 80-05-18 W for 16.53 feet to a Point; thence N 49-37-37 W for 34.19 feet to a Point; thence N 16-33-31 W for 17.51 feet to a Point; thence N 16-33-31 W for 26.67 feet to a Point; thence N 03-35-01 E for 61.54 feet to a Point; thence N 06-47-48 E for 49.02 feet to a Point; thence N 63-26-02 E for 65.75 feet to a Point; thence N 88-51-33 E for 38.10 feet to a Point; thence N 50-31-07 E for 29.18 feet to a Point; thence N 05-27-52 E for 24.61 feet to a Point; thence N 06-04-41 W for 17.78 feet to a Point; thence N 31-27-14 W for 16.79 feet to a Point; thence N 31-27-14 W for 50.61 feet to a Point; thence N 40-25-17 E for 28.65 to a Point; thence N 40-25-17 E for 46.02 feet to a Point; thence N 46-41-01 E for 59.53 to a Point; thence N 40-20-31 E for 28.07 feet to a Point; thence N 54-19-13 E for 38.35 feet to a Point; thence S 86-40-09 E for 12.83 feet to a Point; thence S 59-39-34 E for 17.11 feet to a Point; thence S 36-43-51 E for 54.31 feet to a Point; thence S 69-56-33 E for 55.22 feet to a Point; thence N 66-15-02 E for 50.46 feet to a Point; thence N 68-49-10 E for 4.70 feet to a Point; thence N 68-49-10 E for 38.29 feet to a Point; thence N 40-40-24 E for 17.09 feet to a Point; thence N 40-40-24 E for 27.28 feet to a point; thence N 36-16-11 E for 29.14 feet to a Point; thence N 27-33-47 E for 25.85 feet to a Point; thence N 74-29-04 E for 44.89 feet to a Point; thence N 74-29-04 E for 18.85 feet to a Point; thence S 79-44-15 E for 31.90 feet to the Point of Beginning, thence with the common line of an Unopened Street (unimproved) N 07-40-54 W for 491.19 to an Iron Pin located on the common line of Alley, Deed Book 1056, page 355; thence with said common line N 53-18-22 E for 327.84 feet to an Iron Pin located on the western right-of-way of Cincinnati, New Orleans and Texas Pacific Railway, Co. (100' R/W); thence with said right-of-way S 07-42-23 E for 1053.90 feet to a Point; thence S 07-33-01 E for 67.48 feet to a Point located on the centerline of Mountain Creek; thence with the centerline of Mountain Creek S 89-35-21 W for 49.49 feet to a Point; thence N 64-27-27 W for 11.49 feet to a Point; thence N 21-28-16 W for 4.05 feet to a point; thence N 39-04-51 W for 58.08 feet to a Point; thence N 48-36-44 W for 97.66 feet to a Point; thence N 36-06-31 W for 49.14 feet to a Point; thence N 37-25-41 W for 40.22 feet to a Point; thence N 32-01-14 W for 37.40 feet to a Point; thence N 43-09-47 W for 55.91 feet to a Point; thence N 35-53-12 W for 50.83 feet to a Point; thence N 18-28-17 W for 23.89 feet to a Point; thence N 19-34-41 E for 12.91 feet to a Point; thence N 00-50-50 W for 52.45 feet to a Point; thence N 25-21-21 W for 25.13 feet to a Point; thence N 52-47-41 W for 25.28 feet to the Point of Beginning containing 254,359 Sq. Ft. or 5.839 Acres more or less.

Beginning at a point at the intersection of the eastern right of way of Mountain Creek road, which has a width of 60 feet, with the northern right of way of Runyan Road North; thence northerly along said eastern right of way 3,202.09 feet to a point at the southwest corner of property described in Book 2037, Page 960, Register's Office, Hamilton County, Tennessee; thence South 60 degrees 14 minutes East 150.0 feet to the southeast corner of said property; thence North 26 degrees 00 minutes East 100.0 feet to the northeast corner of said property; thence South 60 degrees 14 minutes East 1,067.0 feet to a point; thence South 28 degrees 52 minutes West 529.8 feet to a point on the northern bank of Mountain Creek; thence south 28 degrees 52 minutes West 10 feet, more or less, to a point in the center line of said Creek; thence southerly along said center line and following the meanderings thereof, 3,545 feet, more or less, to the intersection of said centerline with said northern right of way of Runyan Road North; thence westerly along said northern right of way 137 feet, more or less, to a point; thence North 55 degrees 39 minutes West along said right of way 749.8 feet to a point at the beginning of a curve; thence northerly along a curve which has a radius of 25 feet to the point of beginning.

LESS AND EXCEPT those portions of said property conveyed in Book 1744, Page 559, Book 4434, Page 940, Book 4720, Page 674, Book 4933, Page 969, Book 5249, Page 296, Book 7221, Page 857, and Book 7336, Page 382, in the Register's Office of Hamilton County, Tennessee.