

**DECLARATION OF FIRST AMENDMENT OF**

**COVENANTS AND RESTRICTIONS**

**FOR**

**THE FARMS SUBDIVISION**

**CITY OF BENTONVILLE**

**BENTON COUNTY, ARKANSAS**

Brandi DeShields-Circuit Clerk  
Benton County, AR  
Book/Pg: 2007/52147  
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12/27/2007

THIS DECLARATION made this September 1, 2007 by TL and Sons Construction, LLC, an Arkansas Limited Liability Company, LLC (herein "Developer").

**WITNESSETH**

WHEREAS, Developer, as owner of certain real property located in The City of Bentonville, Benton County, Arkansas, desires to create thereon a development known as The Farms (sometimes herein "Development") as more particularly described on the recorded Plat of said subdivision; and

WHEREAS, Developer desires to provide for the preservation an enhancement of value when and as the property is improved and desires to subject the development to certain covenants and restrictions as hereinafter set forth, each and all of which are hereby declared to be for the benefit of the Development and each and every owner of any and all parts thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in the Development, to create an entity to which should be delegated and assigned the power and authority of holding title to and maintaining and administering the Common Properties (as hereinafter defined) and administering and enforcing the covenants and restrictions governing the same and collecting and disbursing all assessments and charges necessary for such maintenance, administration and enforcement, as herein created; and

WHEREAS, Developer has caused or will cause to be formed under the laws of the State of Arkansas, THE FARMS PROPERTY OWNERS ASSOCIATION, (herein FARMSPOA), for the purpose of exercising the above functions and those which are more fully set out hereafter;

NOW, THEREFORE, the Developer subjects the Development property to the terms of this Declaration and declares that the same is and shall be held, transferred, sold, conveyed, occupied and used, subject to the covenants and restrictions (sometimes herein "Covenants") hereinafter set forth.

**ARTICLE I**  
**ARCHITECTURAL CONTROL**

**1.01 Architectural and Design Review.** In order to establish and preserve a harmonious design for the Development, to promote and protect the property values, to insure that all dwellings and accessory buildings constructed or erected shall have good quality materials and workmanship and are compatible with other dwellings and accessory buildings constructed or to be constructed in the Development, the Developer or the Architectural Control Committee (herein "FARMSACC") of the "FARMSPOA" shall approve the details of construction plans including dwelling placements. The Developer shall have sole architectural and design reviewing authority for the Development until the FARMSACC has been established. The FARMSACC shall be established and the Developer shall transfer reviewing authority to it when 100% of the lots in the Development have been sold to homeowners or at such time or percentage deemed appropriate by the developer. Any and all decisions will be at the sole discretion of developer until such time that the authority is transferred to the FARMSPOA.

**1.02 Approval Requirements.** No building shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure on the lot has been approved by the Developer or FARMSACC. Such plans shall be submitted for approval at least 15 days prior to the planned commencement of construction of same, and the written approval of the Developer or FARMSACC shall be required before construction. Should any plans submitted hereunder fail to be approved or disapproved within said 15 day time period provided, or in any event, if no suit to enjoin the construction proposed is commenced prior to the completion thereof, approval will not be required, and the related Covenants shall be deemed to have been fully complied with.

**1.03 Approval Guidelines and Limitations.** Approval of any proposed plans submitted shall be withheld unless such plans and specifications comply with the applicable Covenants. Approval of plans and specifications by the Developer or FARMSACC is for the mutual benefit of all FARMS property owners and is not intended to be, and shall not be construed as, an approval or certification that the plans and specifications are technically sound or correct from an engineering or architectural viewpoint. Each property owner shall be individually responsible for the technical aspect of the plans and specifications.

**ARTICLE II**  
**ARCHITECTURAL CONTROL**

**2.01 Residential Use.** All lots within the Development shall be governed by the provisions of the current building codes enforced by the City of Bentonville and a regulation governing single-family residences on the date the individual building permits are issued by the City of Bentonville.

**2.02 Building Limitations.** The building codes as they presently exist or are hereinafter amended, shall be and are hereby made applicable to all lots in the Development. All dwellings and other improvements shall comply with said ordinances as they exist on the date of such construction. Any conflict between such ordinances and the provisions of these Covenants shall be resolved in favor of the more restrictive provisions. No dwelling structure shall be constructed on any lot within the Development of a size less than 1,800 square feet of living space. Further, each dwelling shall have a private garage for not less than two (2) cars with a total space of not less than 400 square feet and shall have a concrete driveway at least (16) sixteen feet wide. All building exteriors must be 80% brick, stone, stucco or other masonry material specifically approved by the Developer or FARMSACC to 1<sup>st</sup> floor plate line, excluding windows, porches, patios, and dormers. Roof pitch shall be 8/12 minimum with Heritage II or equal architectural shingles in weathered wood or similar color approved by the Developer or FARMSACC. All lots must be fully sodded and landscaped. No seeded lawns will be allowed.

**2.03 Home Occupations.** Home occupation is defined as a completely constructed building or property being used for no other purpose other than as a residence. Any other activity or use must have the written approval of the Developer or FARMSPOA.

**2.04 Setbacks.** Setbacks shall be as designated on the final plat in accordance to the city of Bentonville zoning ordinance. At the time of the final plat, no building shall be erected on any lot in the development nearer than: (1) 20 feet to the front lot line; garages 30 feet (2) 25 feet to the rear lot line; (3) 7 feet to the interior side lot line;(4) 20 feet to the exterior side lot line. Should any building setback line shown upon the THE FARMS plat vary from the setback requirements required herein, the building setback lines shown upon said plat shall control and take precedence over those stated herein.

**2.05 Fences.** The approval requirements outlined in subsection 1.02 for buildings shall also apply to fences. Fencing of front yards is prohibited. Fencing on corner lots shall not be placed closer to the street than the front yard setbacks of adjoining lots and street side setback shall be at least twelve (12) feet from side property line. No fences shall exceed six (6) feet in height. All fencing shall be privacy or shadow box wood fence. All fencing and materials shall be approved by the Developer or FARMSACC. Galvanized chain link and other forms of wire fencing are specifically prohibited.

**2.06 Vehicle Parking.** All vehicles, except recreational vehicles and equipment, owned by lot owners, shall be parked only in the lot owner's garage or driveway. Recreational vehicles and equipment including but not limited to boats, motor homes, travel trailers, campers and the like shall not be parked or stored within 25 feet of the front lot line for a period of time exceeding seven (7) days. Provided, however, recreational vehicles and equipment may be parked in backyards for a period exceeding seven (7) days so long as they are screened by proper fencing, or a hedge composed of shrubs at least six (6) feet in height, so as to reasonably screen the sight of said vehicle or equipment from neighbors. No street parking allowed by lot owners. Guest street parking is allowed for short durations not to exceed four (4) hours. No vehicles shall be parked or stored on the lot owners front yard.

**2.07 Signs.** No signs, either permanent or temporary, of any kind, shall be placed or erected on any property, without the consent of the Developer or FARMSPOA, unless signage upon property advertises the same for sale or rent, and does not exceed the City of Bentonville Sign Ordinance. Provided, however, that the Developer and approved builders may erect signs to advertise the Development and model homes.

**2.08 Temporary Structures.** No trailer, tent, shack, garage, barn or other outbuilding or structure erected on a building site within the Development shall at any time be used for human habitation, temporarily or permanently, nor shall any structure of a temporary character be used for human habitation. This restriction does not prohibit the storing of recreational vehicles or equipment on the lots when done in accordance with subsection 2.06. This restriction does not prohibit the Developer or approved builders from placing temporary construction trailers and/or storage facilities on lots as deemed necessary for construction purposes.

**2.09 Accessory Structures.** Accessory buildings, in-ground swimming pools, cabana structures and gazebos may be built within the building area on any lot subject to the approval of the Developer or FARMSACC. The approval requirements outlined in subsection 1.02 for buildings shall apply to these structures. Accessory buildings shall be restricted to one (1) per lot, no larger than twenty (20) feet by fourteen (14) feet, and designs that are compatible with the existing dwelling. In-ground swimming pools, cabana structures and gazebos shall be restricted to one (1) each per lot and designs that are compatible with the existing dwelling. The interior area of outbuildings and cabana structures shall not be included in the determination of minimum dwelling sizes. Permanent and semi-permanent above-ground swimming pools are not allowed.

**2.10 Antennas.** No television antenna, dish, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of any dwelling or other structure within the Development without the approval of the Developer or FARMSPOA; nor shall radio, television signals, nor any other form of electromagnetic radiation be permitted to originate from any Development lot which may unreasonably interfere with the reception of television or radio signals upon any other Development properties. EXCEPTION: Digital satellite system receivers or internet access with dual purpose dish not more than eighteen (18) inches in diameter shall be allowed provided they are not visible from the street. The Developer or FARMSPOA can approve exceptions at their discretion.

**2.11 Animals.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept and maintained provided that they are not kept, bred or maintained for any commercial purposes. Household pets shall be maintained in a clean and sanitary situation and shall not be noxious or a nuisance to the surrounding owners. Each household shall be limited to not more than three (3) dogs and/or cats. A total of three (3) household pets. Dogs must be considered tame and leashed while away from owner's lot.

**2.12 Easements.** Perpetual easements have been reserved, as shown on the approved plat, for the construction and maintenance of utilities and drainage, and no permanent structure of any kind shall be erected or maintained upon or over said easements.

**2.13 Nuisances.** No noxious or offensive activity shall be permitted upon any lot, nor shall anything be done thereupon which may be or may become an annoyance or a nuisance to the neighborhood. Grass, trees and various vegetation shall be kept neatly cut and maintained including five (5) feet green belt between street and sidewalk. Lawns shall not be allowed to exceed six (6) inches from the ground surface. Fences or other outside structures or outdoor decorations shall be maintained so as not to become unsightly or an annoyance or a nuisance to the neighborhood. Materials for improvements, or maintenance shall not be stock piled or stored in an unsightly manor within the limits of the front yard. Trash cans and or bags shall be located out of site of the street except for the day of trash collection. All trash or waste materials shall be removed from view daily. Upon owner's failure to comply with this subsection, the Developer or FARMSPOA may perform, or have performed, the necessary action to remedy the problem, and shall be entitled to recover the expense associated with such remedial action from the offending owner.

**2.14 Building Materials.** No building material of any kind or character shall be placed or stored upon any lot until the owner is ready to commence construction of the improvements requiring such materials. Building materials shall not be placed or stored in the street or between the curb and property lines. Upon completion of the improvements requiring such materials, all remaining building materials and refuse shall be removed from the subdivision.

**2.15 Inoperative Vehicles.** No vehicle, bus, tractor or other conveyance or rig shall be left inoperative on any lot for a period of more than three (3) days.

**2.16 Sight Distance at Intersections.** No fence, wall, hedge or shrub which obstructs sight lines at intersections within the subdivision shall be permitted.

**2.17 Sound Devices.** No exterior speaker, horn, whistle, bell or other sound device which is unreasonably loud or annoying, except security devices used exclusively for security purposes, shall be located, used or placed upon lots in the subdivision. The playing of loud music from porches or decks shall be considered offensive, obnoxious activity constituting a nuisance.

**2.18 Laundry.** The hanging of laundry from any area within or outside a residence which places the laundry within public view is prohibited.

**2.19 Landscaping.** Landscaping is considered a private property improvement performed by the property owner and shall be trimmed and maintained in a manner that will enhance the overall appearance of the property.

### ARTICLE III

#### COMMON PROPERTIES

**3.01 Common Properties Defined.** "Common Properties" shall mean and refer to those tracts of land and any improvements thereon which are deeded to the FARMSPOA and designated in said deed as "Common Properties" and any personal property acquired by the FARMSPOA if said property is designated as "Common Property". All Common Properties are intended for and are to be devoted to the common use and enjoyment of the owners of The Farms properties and their guests. The Common Properties shall include but not be limited to the entries to the Development and all open space not inclusive of buildable lots.

### ARTICLE IV

#### ASSESSMENTS

**4.01 Amount of Annual Assessments.** On or before the first day of December of each year, the FARMSPOA Board (or the Developer if the transfer of governing authority from the Developer to the FARMSPOA has not yet taken place as described in the FARMSPOA Bylaws) will adopt a budget for the upcoming year. The budget will establish the total amount of annual assessments on all lots in the Development. The amount of annual assessments for the individual lots will be the same for Developer approved builders and homeowners.

**4.02 Changes in Annual Assessments.** The amount of the annual assessments on all lots may be increased or decreased by an affirmative vote of the FARMSPOA board or by the Developer if the FARMSPOA does not exist at an annual or special meeting of the FARMSPOA duly called for such purpose.

**4.03 Commencement of Assessments.** The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Developer to be the date of commencement, but not earlier than January 1, 2008.

**4.04 Pro Rata Assessments.** The amount of the first annual assessment shall be based pro rata upon the balance of the calendar year and shall become due and payable by the Developer approved builders and homeowners on the closing of the lot. The assessments for any year, after the first year, shall become due and payable the first day of January of said year.

**4.05 Statements.** On the first business day after adoption of the budget for the upcoming year (or as soon as practicable thereafter) the FARMSPOA or Developer shall mail a statement to each owner informing him or her of their annual assessment and the due date for payment thereof.

**4.06 Late Fees.** The Developer or FARMSPOA shall be authorized to charge a late fee to any lot owner who fails to pay any assessment on or before the due date thereof.

**ARTICLE V**  
**GENERAL PROVISIONS**

**5.01 Duration of Covenants.** These Covenants shall run with and bind the land and shall inure to the benefit of and be enforceable by the FARMSPOA, the Developer or owners, their respective legal representatives, heirs, successors and assigns, and shall be effective for a period of twenty (20) years following the effective date hereof, and may be continued thereafter as provided by Arkansas law.

**5.02 Amendments.** These Covenants may be amended upon the affirmative vote of the FARMSPOA at any annual or special meeting of the FARMSPOA duly called for such purpose, provided that no amendments shall be allowed which would be in violation of any federal, state or county regulation.

**5.03 Severability.** Invalidation of any restriction set forth herein, or any part thereof, by any order, judgment, or decree of any court, or otherwise, shall not invalidate or affect any of the other restrictions or any part thereof, as set forth herein, but they shall remain in full force and effect.

**5.04 Violations.** In the event of any violation or attempt to violate any of the Covenants herein, it shall be lawful for any person, persons or entity owning any lots in The FARMS, including the Developer and FARMSPOA, to prosecute any proceedings at law or in equity against a person or persons violating or attempting to violate such Covenants, and either prevent him or them from so doing and/or to recover damages for such violations. Provided further, however, that the Developer or FARMSPOA shall first advise any violator of said violations prior to legal action being taken. The Developer or FARMSPOA shall receive from residents any complaints as to violations of the Covenants, and shall reasonably notify any violator prior to legal actions being taken.

Book 2007 Page 52154  
Recorded in the Above  
DEED Book & Page  
12/27/2007  
Benton County, AR  
I certify this instrument was filed on  
12/27/2007 4:37:23PM  
and recorded in DEED Book  
2007 at pages 0052147 - 0052154  
Brenda DeShields-Circuit Clerk

Signed, sealed and delivered this 27<sup>th</sup> day of December, 2007.

The Farms Subdivision

By: Terry O'Dell  
Signature  
Terry O'Dell, President

State of Arkansas )

) ss.

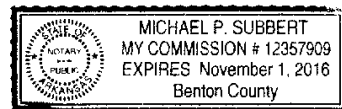
**ACKNOWLEDGMENT**

County of Benton )

On this 27<sup>th</sup> day of December, 2007 came before the undersigned, a Notary Public within and for the State and County aforesaid, duly commissioned and acting, Terry O'Dell, to me well known as the President of The Farms Subdivision and executed the above and foregoing Declaration of Covenants and Restrictions for The Farms Subdivision.

WITNESS my hand, at office, this 27 day of December, 2007.

Michael P. Subbert Notary Public



My Commission Expires: NOV 1 2016



Brenda DeShields-Circuit Clerk  
Benton County, AR  
Book/Pg: 2008/22246  
Term/Cashier: CASH5/SCOFFELT  
06/16/2008 1:39:02PM  
Tran: 39820  
Total Fees: \$65.00

**DECLARATION OF COVENANTS OF ASSURANCE OF THE FARMS SUBDIVISION  
TO THE CITY OF ROGERS, ARKANSAS**

Book 2008 Page 22246  
Recorded in the Above  
DEED Book & Page  
06/16/2008

This Plat and Bill of Assurance made this 10th day of June 2008, by Oliver Haynes, LLC and Sachs/Haynes Development 2, LLC, hereinafter referred to as "Developer".

**Article 1.**

Recitals

1.1 The Developer is the present record title holder of certain real property situated in the County of Benton, State of Arkansas, more particularly described as follows:

**The Farms Subdivision in Rogers, AR including common area.**

1.2 The Developer intends to plat the Property from time to time into Lots but all the Property shall forever be known as **The Farms Subdivision**, Benton County, Arkansas.

1.3 Developer is desirous of subjecting the Property to the conditions, covenants, restrictions and reservations herein set forth to insure proper use and appropriate development and improvement of said Property as an office park complex.

**Article II.**

Definitions

2.1 Definition of Terms:

- a) "Developer" shall mean Oliver Haynes, LLC and Sachs/Haynes Development 2, LLC, its successors and assigns.
- b) "Owner" shall mean and refer to the record owner, whether one or more persons or entities of the fee simple title to any Lot in The Farms Subdivision, Benton County, Arkansas, but excluding those having any interest merely as security for the performance or payment of an obligation.
- c) "Property" shall mean and refer to the real property hereinbefore described as The Farms Subdivision, Benton County, Arkansas.

- d) "Improvements" shall mean and include but not be limited to buildings, parking areas, loading areas, fences, walls, hedges, landscaping, mass plantings, poles, signs and any structures of any type or kind.
- e) "Lot" shall mean and refer to the fee simple absolute estate of any numbered plot of land shown upon the Plat of The Farms Subdivision as heretofore and hereafter platted.
- f) "Plat" shall mean and refer to that certain drawing attached to and made a part of this instrument.

**Article III.**

**Purpose**

3.1 The Property is hereby made subject to the following conditions, covenants, restrictions and reservations all of which shall be deemed to run with the Property and each and every parcel thereof to insure proper use and appropriate development and improvement of said Property so as to:

- a) protect the Owner against such improper development and uses of surrounding Lots as will depreciate the value and use of their Lots;
- b) prevent the erection on the Property of structures constructed of improper or unsuitable materials or with improper quality and methods of construction;
- c) insure adequate and reasonably consistent development of the Property;
- d) encourage and assure the erection of attractively designed permanent improvements appropriately located within the Property in order to achieve harmonious appearance and function;
- e) to provide adequate off street parking and loading facilities; and
- f) generally promote the welfare and safety of the Owner.

3.2 The Developer hereby plats The Farms Subdivision, Benton County, Arkansas. Henceforth, description and conveyance by such designation as shown and represented on the Plat shall be a proper and sufficient description for all purposes.

**Article IV.**

**Easements and Roadways**

4.1 A permanent easement or easements for drainage, for laying and maintaining sewer pipes and mains, storm sewers and for the installation and maintenance of utilities are created, accepted and reserved over, across and through the Property as shown on the attached Plat.

4.2 The Developer hereby dedicates to the public forever an easement of way on and over the streets as shown on said Plat, to be used as public streets.

**Article V.**

**Permitted Uses**

5.1 In the development, use, or ownership of all or any portion of the Property the Owner thereof shall develop same in compliance with the zoning rules and regulations of the City of Rogers and any and all other applicable governmental entities as they apply to any particular portion of the Property.

5.2 Owner shall not permit any commercial uses on said Property except as listed as Normal Uses, Accessory Uses and Conditional Uses in the C-3, C-2 and R-O Zoning Classifications of the Zoning Ordinances of the City of Rogers.

**Article VI.**

**Regulation of Improvements**

6.1 Approval. No building shall be erected, placed or altered on the Property until the building plans, specifications, exterior color scheme and plot plan showing the location and facing of such building with respect to existing topography, adjoining streets and finished ground elevations have been approved in writing by the Developer. A primary purpose of this restriction is to insure that proper standards of planning, design and construction are followed in the development of the Property and as such, all submissions shall be prepared by a licensed architect with current registration in the State of Arkansas. Final design approval shall be made by Mr. H. Collins Haynes, Architect, chairman of Architectural Control.

6.2 Developer's Liability. The granting of any approval, permit or authorization by the Developer shall be final and binding. The Developer shall incur no liability by reason of its approval or refusal to approve any plans or specifications submitted hereunder.

6.3 Submission Requirements.

(a) Any submission to the Developer for approval of a proposed development shall include:

(1) A large-scale development plan, to scale, indicating the location of all proposed improvements, including, without limitation, structures, parking areas, storage and maintenance areas, fencing, drainage and traffic circulation;

(2) Landscape plan, to scale, indicating site topography, elevations of walks, drive and building entries, existing tree locations, proposed tree removal and /or replacement (location and trunk diameter), fencing location, site of fencing and material thereof, and any other pertinent site treatment;

(3) Building elevations, to scale, indicating all elevations of proposed structures with specification of building materials, fences and color scheme; and

(4) Sign plan, indicating design, location and details of all signs, which will be visible from the exterior of any building.

(b) Approval of any proposed development by the Developer will not relieve any Owner of the obligation to comply with all laws, ordinances, regulations or rules of any governmental body, nor can any Owner rely upon such approval as an indication of such compliance. In no event will approval of such proposed development by the Developer create any liability to the Owner or to any third party who may seek to rely thereon.

6.4 Setbacks. No building shall be located on any building site nearer to the front, side or rear lot lines than the minimum building set-back lines shown on any recorded Plat affecting the Property. Provided, however, in the event any Owner or Owners of contiguous Lots desire to develop their Lots as one project, the Developer shall have the right to waive the common side setback lines to promote the

development of the contiguous Lots as one in a manner which is aesthetically compatible with the development of the Property, if approved by the City of Rogers.

6.5 Sidewalks. Sidewalks shall be installed by the Lot Owner along abutting streets as may be required by the City of Rogers.

6.6 Subdividing. No Lot shall be subdivided without written consent of the Developer and the Rogers Planning Commission first having been obtained.

6.7 Building Exteriors. The exterior of all improvements on any Lot shall comply with the following:

(a) Exterior wall elevations of buildings must include at least 40% content of brick, modular, unless otherwise approved by the Developer.

(b) Roofs shall be of a flat or sloping design in standing seam metal , color approved by the Developer.

(c) Roof-mounted mechanical equipment, which is visible from the ground, is to be screened and painted to match the exterior material of the building. No rooftop HVAC units allowed.

(d) Gutters and downspouts are to be painted to match the surface to which attached.

(e) Vents, louvers, exposed flashing and service doors are to be painted consistent with the exterior material of the building.

6.8 Screening. Areas used for loading, service access, ground-level mechanical equipment, and other appurtenant items of poor visual quality are to be screened by the use of the same material as the building exterior. In the case of certain low-level items, such as transformers, the Developer may approve the substitution of dense, mature landscape materials.

6.9 Signs.

(a) Ground Signs.

(1) There may be a maximum of one ground sign per building unless the development has entrance drives on two streets, in which case there may be one ground sign at the

entrance drive on each street up to a maximum of two total signs, provided Lot owner receives variance from the City of Rogers.

(2) The ground signs will be of material approved by the Developer. All letters are to have metal finish directly applied.

(3) Ground signs will be no more than four feet above grade in height nor more than 32 square feet in area. If signs are upon landscaped berms, their maximum height above curb level shall be six feet.

(b) Wall Signs. There may be a maximum of one wall sign per building unless a building fronts on two streets, in which case there may be one wall sign per street frontage up to a maximum of two per building.

(c) Temporary Signs. The location, size and design of temporary signs are subject to the approval of the Developer.

#### 6.10 Driveways and Parking.

(a) The location of driveways requires the prior approval of the Developer.

(b) Each development is to provide the following minimum parking within its confines:

(1) Office: One space per 300 square feet gross floor area

(c) No parking is permitted on any streets.

(d) All parking areas adjacent to landscaped areas shall have concrete upright curbs.

#### 6.11 Lighting. Exterior lighting shall comply with the following:

(a) Parking Lot:

(1) Commercial Area:

(a) Fixture: Kim Lighting – AR Archetype

(b) Pole: Valmont Poles DS330 maximum height of 25' including base

(b) Walkways:

(1) Type: 8" round bollard light

(2) Finish: Black finish

(c) Lighting to highlight building shall be at ground level with black finish for fixtures.

(d) Security lighting fixtures are limited to use for lighting loading or similar service areas and shall have black shielding.

(e) All exterior lighting shall be shielded and confined within the site boundaries, dark sky lighting.

#### 6.12 Landscaping.

(a) Owner will be responsible for the design, development and maintenance of the landscape on his own site and contiguous planting areas within various right-of-ways and public property to the face of curb. Contiguous parcels owned by such Owner reserved for future expansion shall have the required landscape areas fronting on streets fully developed at the time the first phase of development occurs. Lot mowing of any undeveloped parcels shall be required at least monthly during the growing season. Dead or extensively damaged trees, ground cover or shrubs shall be identically replaced within thirty (30) days after the damage occurs. Replacements may be made at a later date, with the Developer's approval, if necessary due to seasonal conditions.

(b) Irrigation: All landscaped areas are to be irrigated with an approved automatic sprinkler system. Impact heads will be utilized along the rights-of-ways and will be spaced to provide complete coverage between the right-of-way line and the back of curb. The irrigation system will be designed and operated to prevent or minimize run-off and discharge of irrigation water on to roadways, driveways, adjacent properties and any area not under control of the user.

#### 6.13 Maintenance of Areas in Public Rights of Way/POA

(a) Each Lot Owner shall pay to the Developer or its assignee and annual maintenance charge, which charge shall be due and payable annually in advance on the first day of January in each year. The first year fee shall be prorated on a daily basis from the date of closing through December 31 of that year. The maintenance fund will be used for improving (not initial development) and maintaining the

rights of ways (the "Public Areas") in the Property in such a manner as is deemed necessary by the Developer to maintain the overall attractiveness of the Property, including but not limited to maintaining attractive landscaping in the Public Areas, or for doing any other thing necessary in the opinion of the Developer, for keeping the Public Areas neat or in good order. The maintenance of the green areas for each individual Lot within the public right-of-way shall be the responsibility of the Lot Owner.

(b) In the event that any Owner fails to maintain its Lot or that area of the public right-of-way that is its responsibility for maintenance, then the Developer, following reasonable notice, may perform the necessary maintenance and charge to that respective Owner the cost of such maintenance work. This right of the Developer shall be limited to the landscaping and exterior housekeeping and shall not extend to any maintenance of buildings.

(c) Any unpaid amount for general maintenance of the Public Areas or for specific maintenance performed by the Developer due to Owner's failure to maintain its Lot shall become a lien against the subject Lot.

(d) The fee shall be \$1,200.00 annually per lot.

(e) Maintenance of the "Outlot", an area containing .380 acres, shall be the responsibility of the owner; Chastain Revocable Trust

(f) A one time "Green Fee" shall be assessed upon on any transaction involving any property located in The Farms Subdivision, such fee shall be assessed @ \$500.00 per acre of property. "Green Fees" shall be collected at the time of closing and transferred to the POA to be used for the construction of the Rogers Trail System in the Farms Subdivision.

#### Article VII.

##### Termination, Modification and Assignments.

7.1 Term. The covenants, conditions and restrictions and reservations contained herein shall continue in full force and effect until January 1, 2033 and shall thereafter be renewed automatically from year to year unless and until terminated as provided in paragraph 8.2 hereof.



7.2 Termination and Modification. The covenants, conditions, restrictions and reservations contained herein may be terminated, extended, modified or amended as to the whole of the Property or any portion thereof, with the written consent of the owners of 75% of the Property (other than Property dedicated to the Public Areas). Such termination, extension, modification or amendment shall be immediately effective on the recording the proper instrument in writing executed and acknowledged by such Owner in the office on the Clerk and Ex-Officio Recorder of Benton County, Arkansas.

7.3 Assignment of Developer's Rights and Duties. Any and all rights, powers and reservations of the Developer herein contained may be assigned by the Developer to any person, corporation or association or committee which will assume any or all of the duties of Developer hereunder, and upon any such person, corporation or association's evidencing its consent in writing to accept such assignment, said assignee shall, to the extent of such assignment, assume Developer's duties hereunder, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by the Developer herein. Upon such assignment, and to the extent thereof, the Developer shall be relieved from all liabilities, obligations and duties hereunder. The term Developer as used herein includes all such assignees and their heirs, successors and assigns. If at any time the Developer ceases to exist and has not made such as assignment, a successor developer may be appointed by the Owners of 75% of the Property ( other than Public Areas) upon compliance with the requirements of paragraph 8.2 of this Article VII.

#### Article VIII.

##### Miscellaneous

8.1 No Waiver. All the conditions, covenants, restrictions and reservations contained in this Bill of Assurance shall be construed together, but if it shall at anytime be held that any one of said conditions, covenants, restrictions and reservations or any part thereof, is invalid, or for any reason becomes unenforceable, no other conditions, covenants, restrictions and reservations or any part thereof shall be thereby affected or impaired.

8.2 Owner's Liability Subsequent to Sale. Upon sale of a Lot, the Owner so selling shall not have any further liability for the obligations thereon which accrue against such Lot sold after the date of the conveyance; provided, however, that nothing herein shall be construed so as to relieve an Owner of any Lot from any liability or obligations incurred prior to such sale pursuant to this Bill of Assurance. Furthermore, any such sale shall not modify Developer's right of repurchase pursuant to Article VII hereof.

8.3 Benefits and Burdens. The terms and provisions contained in this Bill of Assurance shall bind and inure to the benefit of the Developer, the Owners of all Lots located within the Property, their respective heirs, successors, personal representatives and assigns.

8.4 Notice. Any notices required or permitted herein shall be in writing and mailed, postage prepaid by registered or certified mail, return receipt requested and shall be directed as follows: If intended for an Owner (1) to the Lot if improved; (2) if the Lot is not improved to the address set forth in purchase contract; (3) none of the foregoing, to the last known address of the Owner. If intended for the Developer to the address as follows:

The Farms Subdivision  
c/o H. Collins Haynes  
599 Horsebarn Road, Suite 100  
Rogers, AR 72758

8.5 Singular and Plural. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the contacts requires.

EXECUTED on the date first mentioned above.

The Farms Subdivision

  
H. Collins Haynes, Partner

Book 2008 Page 22256  
Recorded in the Above  
DEED Book & Page  
06/16/2008

ACKNOWLEDGMENT

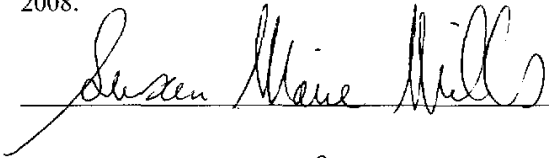
Benton County, AR  
I certify this instrument was filed on  
06/16/2008 1:38:38PM  
and recorded in DEED Book  
2008 at pages 0022246 - 0022256  
Brenda DeShields-Circuit Clerk

STATE OF ARKANSAS

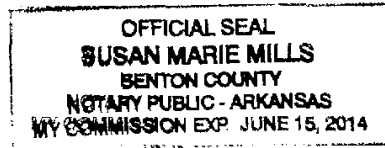
COUNTY OF BENTON

On this day before me, a Notary Public, duly commissioned, qualified and acting within and for said county and state, appeared the within named H. Collins Haynes, Partner, Oliver Haynes, LLC, and Sachs/Haynes Development 2, LLC, to me personally well known, who stated he was duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said partnership and further stated and acknowledged that he had so signed, executed, and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this 16 day of June 2008.



My Commission Expires: June 15, 2014



End of Document

Brenda DeShields-Circuit Clerk  
Benton County, AR  
Book/Pg: 2008/50484  
Tax/Clerk: CASH4/SJOHNSON  
12/17/2008 11:44:05AM  
Tran: 57547  
Total Fees: \$50.00

**DECLARATION OF SECOND AMENDMENT OF  
COVENANTS AND RESTRICTIONS**

**FOR**

**THE FARMS SUBDIVISION**

**CITY OF BENTONVILLE**

**BENTON COUNTY, ARKANSAS**

Book 2008 Page 50484  
Recorded in the Above  
DEED Book & Page  
12/17/2008

THIS DECLARATION made this December 17, 2008 by TL and Sons Construction, LLC, an Arkansas Limited Liability Company, LLC (herein "Developer").

**WITNESSETH**

WHEREAS, Developer, as owner of certain real property located in The City of Bentonville, Benton County, Arkansas, desires to create thereon a development known as The Farms (sometimes herein "Development") as more particularly described on the recorded Plat of said subdivision; and

WHEREAS, Developer desires to provide for the preservation an enhancement of value when and as the property is improved and desires to subject the development to certain covenants and restrictions as hereinafter set forth, each and all of which are hereby declared to be for the benefit of the Development and each and every owner of any and all parts thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in the Development, to create an entity to which should be delegated and assigned the power and authority of holding title to and maintaining and administering the Common Properties (as hereinafter defined) and administering and enforcing the covenants and restrictions governing the same and collecting and disbursing all assessments and charges necessary for such maintenance, administration and enforcement, as herein created; and

WHEREAS, Developer has caused or will cause to be formed under the laws of the State of Arkansas, THE FARMS PROPERTY OWNERS ASSOCIATION, (herein FARMSPOA), for the purpose of exercising the above functions and those which are more fully set out hereafter;

NOW, THEREFORE, the Developer subjects the Development property to the terms of this Declaration and declares that the same is and shall be held, transferred, sold, conveyed, occupied and used, subject to the covenants and restrictions (sometimes herein "Covenants") hereinafter set forth.

## **ARTICLE I**

### **ARCHITECTURAL CONTROL**

**1.01 Architectural and Design Review.** In order to establish and preserve a harmonious design for the Development, to promote and protect the property values, to insure that all dwellings and accessory buildings constructed or erected shall have good quality materials and workmanship and are compatible with other dwellings and accessory buildings constructed or to be constructed in the Development, the Developer or the Architectural Control Committee (herein "FARMSACC") of the "FARMSPOA" shall approve the details of construction plans including dwelling placements. The Developer shall have sole architectural and design reviewing authority for the Development until the FARMSACC has been established. The FARMSACC shall be established and the Developer shall transfer reviewing authority to it when 100% of the lots in the Development have been sold to homeowners or at such time or percentage deemed appropriate by the developer. Any and all decisions will be at the sole discretion of developer until such time that the authority is transferred to the FARMSPOA.

**1.02 Approval Requirements.** No building shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure on the lot has been approved by the Developer or FARMSACC. Such plans shall be submitted for approval at least 15 days prior to the planned commencement of construction of same, and the written approval of the Developer or FARMSACC shall be required before construction. Should any plans submitted hereunder fail to be approved or disapproved within said 15 day time period provided, or in any event, if no suit to enjoin the construction proposed is commenced prior to the completion thereof, approval will not be required, and the related Covenants shall be deemed to have been fully complied with.

**1.03 Approval Guidelines and Limitations.** Approval of any proposed plans submitted shall be withheld unless such plans and specifications comply with the applicable Covenants. Approval of plans and specifications by the Developer or FARMSACC is for the mutual benefit of all FARMS property owners and is not intended to be, and shall not be construed as, an approval or certification that the plans and specifications are technically sound or correct from an engineering or architectural viewpoint. Each property owner shall be individually responsible for the technical aspect of the plans and specifications.

## **ARTICLE II**

### **ARCHITECTURAL CONTROL**

**2.01 Residential Use.** All lots within the Development shall be governed by the provisions of the current building codes enforced by the City of Bentonville and a regulation governing single-family residences on the date the individual building permits are issued by the City of Bentonville.

**2.02 Building Limitations.** The building codes as they presently exist or are hereinafter amended, shall be and are hereby made applicable to all lots in the Development. All dwellings and other improvements shall comply with said ordinances as they exist on the date of such construction. Any conflict between such ordinances and the provisions of these Covenants shall be resolved in favor of the more restrictive provisions. No dwelling structure shall be constructed on any lot within the Development of a size less than 1,800 square feet of living space. Further, each dwelling shall have a private garage for not less than two (2) cars with a total space of not less than 400 square feet and shall have a concrete driveway at least (16) sixteen feet wide. All building exteriors must be 80% brick, stone, stucco or other masonry material specifically approved by the Developer or FARMSACC to 1<sup>st</sup> floor plate line, excluding windows, porches, patios, and dormers. Roof pitch shall be 8/12 minimum with Heritage II or equal architectural shingles in weathered wood or similar color approved by the Developer or FARMSACC. All lots must be fully sodded and landscaped. No seeded lawns will be allowed.

**2.03 Home Occupations.** Home occupation is defined as a completely constructed building or property being used for no other purpose other than as a residence. Any other activity or use must have the written approval of the Developer or FARMSPOA.

**2.04 Setbacks.** Setbacks shall be as designated on the final plat in accordance to the city of Bentonville zoning ordinance. At the time of the final plat, no building shall be erected on any lot in the development nearer than: (1) 20 feet to the front lot line; garages 30 feet (2) 25 feet to the rear lot line; (3) 7 feet to the interior side lot line;(4) 20 feet to the exterior side lot line. Should any building setback line shown upon the THE FARMS plat vary from the setback requirements required herein, the building setback lines shown upon said plat shall control and take precedence over those stated herein.

**2.05 Fences.** The approval requirements outlined in subsection 1.02 for buildings shall also apply to fences. Fencing of front yards is prohibited. Fencing on corner lots shall not be placed closer to the street than the front yard setbacks of adjoining lots and street side setback shall be at least twelve (12) feet from side property line. No fences shall exceed six (6) feet in height. All fencing shall be privacy or shadow box wood fence. All fencing and materials shall be approved by the Developer or FARMSACC. Galvanized chain link and other forms of wire fencing are specifically prohibited.

**2.06 Vehicle Parking.** All vehicles, except recreational vehicles and equipment, owned by lot owners, shall be parked only in the lot owner's garage or driveway. Recreational vehicles and equipment including but not limited to boats, motor homes, travel trailers, campers and the like shall not be parked or stored within 25 feet of the front lot line for a period of time exceeding seven (7) days. Provided, however, recreational vehicles and equipment may be parked in backyards for a period exceeding seven (7) days so long as they are screened by proper fencing, or a hedge composed of shrubs at least six (6) feet in height, so as to reasonably screen the sight of said vehicle or equipment from neighbors. No street parking allowed by lot owners. Guest street parking is allowed for short durations not to exceed four (4) hours. No vehicles shall be parked or stored on the lot owners front yard.

**2.07 Signs.** No signs, either permanent or temporary, of any kind, shall be placed or erected on any property, without the consent of the Developer or FARMSPOA, unless signage upon property advertises the same for sale or rent, and does not exceed the City of Bentonville Sign Ordinance. Provided, however, that the Developer and approved builders may erect signs to advertise the Development and model homes.

**2.08 Temporary Structures.** No trailer, tent, shack, garage, barn or other outbuilding or structure erected on a building site within the Development shall at any time be used for human habitation, temporarily or permanently, nor shall any structure of a temporary character be used for human habitation. This restriction does not prohibit the storing of recreational vehicles or equipment on the lots when done in accordance with subsection 2.06. This restriction does not prohibit the Developer or approved builders from placing temporary construction trailers and/or storage facilities on lots as deemed necessary for construction purposes.

**2.09 Accessory Structures.** Accessory buildings, in-ground swimming pools, cabana structures and gazebos may be built within the building area on any lot subject to the approval of the Developer or FARMSACC. The approval requirements outlined in subsection 1.02 for buildings shall apply to these structures. Accessory buildings shall be restricted to one (1) per lot, no larger than twenty (20) feet by fourteen (14) feet, and designs that are compatible with the existing dwelling. In-ground swimming pools, cabana structures and gazebos shall be restricted to one (1) each per lot and designs that are compatible with the existing dwelling. The interior area of outbuildings and cabana structures shall not be included in the determination of minimum dwelling sizes. Permanent and semi-permanent above-ground swimming pools are not allowed.

**2.10 Antennas.** No television antenna, dish, radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of any dwelling or other structure within the Development without the approval of the Developer or FARMSPOA; nor shall radio, television signals, nor any other form of electromagnetic radiation be permitted to originate from any Development lot which may unreasonably interfere with the reception of television or radio signals upon any other Development properties. EXCEPTION: Digital satellite system receivers or internet access with dual purpose dish not more than eighteen (18) inches in diameter shall be allowed provided they are not visible from the street. The Developer or FARMSPOA can approve exceptions at their discretion.

**2.11 Animals.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept and maintained provided that they are not kept, bred or maintained for any commercial purposes. Household pets shall be maintained in a clean and sanitary situation and shall not be noxious or a nuisance to the surrounding owners. Each household shall be limited to not more than three (3) dogs and/or cats. A total of three (3) household pets. Dogs must be considered tame and leashed while away from owner's lot.

**2.12 Easements.** Perpetual easements have been reserved, as shown on the approved plat, for the construction and maintenance of utilities and drainage, and no permanent structure of any kind shall be erected or maintained upon or over said easements.

**2.13 Nuisances.** No noxious or offensive activity shall be permitted upon any lot, nor shall anything be done thereupon which may be or may become an annoyance or a nuisance to the neighborhood. Grass, trees and various vegetation shall be kept neatly cut and maintained including five (5) feet green belt between street and sidewalk. Lawns shall not be allowed to exceed six (6) inches from the ground surface. Fences or other outside structures or outdoor decorations shall be maintained so as not to become unsightly or an annoyance or a nuisance to the neighborhood. Materials for improvements, or maintenance shall not be stock piled or stored in an unsightly manor within the limits of the front yard. Trash cans and or bags shall be located out of site of the street except for the day of trash collection. All trash or waste materials shall be removed from view daily. Upon owner's failure to comply with this subsection, the Developer or FARMSPOA may perform, or have performed, the necessary action to remedy the problem, and shall be entitled to recover the expense associated with such remedial action from the offending owner.

**2.14 Building Materials.** No building material of any kind or character shall be placed or stored upon any lot until the owner is ready to commence construction of the improvements requiring such materials. Building materials shall not be placed or stored in the street or between the curb and property lines. Upon completion of the improvements requiring such materials, all remaining building materials and refuse shall be removed from the subdivision.

**2.15 Inoperative Vehicles.** No vehicle, bus, tractor or other conveyance or rig shall be left inoperative on any lot for a period of more than three (3) days.

**2.16 Sight Distance at Intersections.** No fence, wall, hedge or shrub which obstructs sight lines at intersections within the subdivision shall be permitted.

**2.17 Sound Devices.** No exterior speaker, horn, whistle, bell or other sound device which is unreasonably loud or annoying, except security devices used exclusively for security purposes, shall be located, used or placed upon lots in the subdivision. The playing of loud music from porches or decks shall be considered offensive, obnoxious activity constituting a nuisance.

**2.18 Laundry.** The hanging of laundry from any area within or outside a residence which places the laundry within public view is prohibited.

**2.19 Landscaping.** Landscaping is considered a private property improvement performed by the property owner and shall be trimmed and maintained in a manner that will enhance the overall appearance of the property.

**2.20 Mailboxes.** All mailboxes are of an architectural design and intended not to take away from curbside appeal. All mailboxes will be the same design for all lots within the FARMS Subdivision. All mailboxes will be supplied by the Developer at lot owners expense. Location of all mailboxes will be determined by the Developer or FARMSPOA. No other type of mailbox will be allowed.



**ARTICLE III**  
**COMMON PROPERTIES**

**3.01 Common Properties Defined.** "Common Properties" shall mean and refer to those tracts of land and any improvements thereon which are deeded to the FARMSPOA and designated in said deed as "Common Properties" and any personal property acquired by the FARMSPOA if said property is designated as "Common Property". All Common Properties are intended for and are to be devoted to the common use and enjoyment of the owners of The Farms properties and their guests. The Common Properties shall include but not be limited to the entries to the Development and all open space not inclusive of buildable lots.

**ARTICLE IV**  
**ASSESSMENTS**

**4.01 Amount of Annual Assessments.** On or before the first day of December of each year, the FARMSPOA Board (or the Developer if the transfer of governing authority from the Developer to the FARMSPOA has not yet taken place as described in the FARMSPOA Bylaws) will adopt a budget for the upcoming year. The budget will establish the total amount of annual assessments on all lots in the Development. The amount of annual assessments for the individual lots will be the same for Developer approved builders and homeowners.

**4.02 Changes in Annual Assessments.** The amount of the annual assessments on all lots may be increased or decreased by an affirmative vote of the FARMSPOA board or by the Developer if the FARMSPOA does not exist at an annual or special meeting of the FARMSPOA duly called for such purpose.

**4.03 Commencement of Assessments.** The annual assessments provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Developer to be the date of commencement, but not earlier than January 1, 2008.

**4.04 Pro Rata Assessments.** The amount of the first annual assessment shall be based pro rata upon the balance of the calendar year and shall become due and payable by the Developer approved builders and homeowners on the closing of the lot. The assessments for any year, after the first year, shall become due and payable the first day of January of said year.

**4.05 Statements.** On the first business day after adoption of the budget for the upcoming year (or as soon as practicable thereafter) the FARMSPOA or Developer shall mail a statement to each owner informing him or her of their annual assessment and the due date for payment thereof.

**4.06 Late Fees.** The Developer or FARMSPOA shall be authorized to charge a late fee to any lot owner who fails to pay any assessment on or before the due date thereof.

Book 2008 Page 50490  
Recorded in the Above  
DEED Book & Page  
12/17/2008

**ARTICLE V**  
**GENERAL PROVISIONS**

**5.01 Duration of Covenants.** These Covenants shall run with and bind the land and shall inure to the benefit of and be enforceable by the FARMSPOA, the Developer or owners, their respective legal representatives, heirs, successors and assigns, and shall be effective for a period of twenty (20) years following the effective date hereof, and may be continued thereafter as provided by Arkansas law.

**5.02 Amendments.** These Covenants may be amended upon the affirmative vote of 100% of all property owners within The Farms Subdivision at any annual or special meeting duly called for such purpose, provided that no amendments shall be allowed which would be in violation of any federal, state or county regulation.

**5.03 Severability.** Invalidation of any restriction set forth herein, or any part thereof, by any order, judgment, or decree of any court, or otherwise, shall not invalidate or affect any of the other restrictions or any part thereof, as set forth herein, but they shall remain in full force and effect.

**5.04 Violations.** In the event of any violation or attempt to violate any of the Covenants herein, it shall be lawful for any person, persons or entity owning any lots in The FARMS, including the Developer and FARMSPOA, to prosecute any proceedings at law or in equity against a person or persons violating or attempting to violate such Covenants, and either prevent him or them from so doing and/or to recover damages for such violations. Provided further, however, that the Developer or FARMSPOA shall first advise any violator of said violations prior to legal action being taken. The Developer or FARMSPOA shall receive from residents any complaints as to violations of the Covenants, and shall reasonably notify any violator prior to legal actions being taken.

Book 2008 Page 50491  
Recorded in the Above  
DEED Book & Page  
12/17/2008

Benton County, AR  
I certify this instrument was filed on  
12/17/2008 11:44:40AM  
and recorded in DEED Book  
2008 at pages 0050484 - 0050491  
Brenda DeShields-Circuit Clerk

Signed, sealed and delivered this 17<sup>th</sup> day of December, 2008.

The Farms Subdivision

By: Terry O'Dell  
Signature  
Terry O'Dell, Developer

State of Arkansas )

) ss.

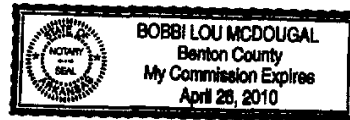
**ACKNOWLEDGMENT**

County of Benton )

On this 17 day of December, 2008 came before the undersigned, a Notary Public within and for the State and County aforesaid, duly commissioned and acting, Terry O'Dell, to me well known as the Developer of The Farms Subdivision and executed the above and foregoing Declaration of Covenants and Restrictions for The Farms Subdivision.

WITNESS my hand, at office, this 17 day of December 2008.

Bobbi Lou McDougal Notary Public



My Commission Expires: 4-26-10

Brenda DeShields-Circuit Clerk  
Benton County, AR  
Book/Pg: 2009/27128  
Term/Cashier: CASH2/TBBER  
06/09/2009 4:02:37PM  
Tran: 76803  
Total Fees: \$75.00  
Book ~~2007~~ Page ~~52147~~ 27128  
Recorded in the Above  
DEED Book & Page  
06/09/2009

**AMENDMENT TO COVENANTS AND RESTRICTIONS FOR  
THE FARMS SUBDIVISION, BENTONVILLE, ARKANSAS**

KNOWN ALL MEN BY THESE PRESENTS:

WHEREAS, the Declaration of First Amendment of Covenants and Restrictions for The Farms Subdivision, City of Bentonville, Benton County, Arkansas (the "Covenants") was executed on December 27, 2007 by Terry O'Dell as President of "The Farms Subdivision" and was recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Benton County, Arkansas, on December 27, 2007 in Book 2007 at Page 52147.

WHEREAS, Section 5.02 of the Covenants provided as follows:

"5.02 Amendments. These Covenants may be amended upon the affirmative vote of the FARMSPOA at any annual or special meeting of the FARMSPOA duly called for such purpose, provided that no amendments shall be allowed which would be in violation of any federal, state or county regulation."

WHEREAS, the Declaration of Second Amendment of Covenants and Restrictions for The Farms Subdivision, City of Bentonville, Benton County, Arkansas (the "Second Amendment") was executed on December 17, 2008 by Terry O'Dell as Developer of "The Farms Subdivision" and was recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Benton County, Arkansas, on December 17, 2008 in Book 2008 at Page 50484.

WHEREAS, Section 5.02 of the Second Amendment provided as follows:

"5.02 Amendments. These Covenants may be amended upon the affirmative vote of 100% of all property owners within The Farms Subdivision at any annual or special meeting duly called for such purpose, provided that no amendments shall be allowed which would be in violation of any federal, state or county regulation."

WHEREAS, the Developer named in the Covenants, TL and Sons Construction, LLC, an Arkansas limited liability company, conveyed all of the lots in The Farms Subdivision on which residences had not been built to Arvest Bank by deed in lieu of foreclosure dated June 2, 2008, which deed was filed for record in the office of the Circuit Clerk and Ex-Officio Recorder of Benton County, Arkansas, on June 2, 2008 in

Deed Book 2008 at Page 20431, and thereupon ceased to act as developer of The Farms Subdivision.

WHEREAS, the execution and recording of the various documents purportedly intended to restrict and govern the uses that may be made of the property in The Farms Subdivision has created confusion and uncertainty as to the validity and enforceability of the covenants that appear of record.

WHEREAS, the owners of all of the lots in The Farms Subdivision, in order to protect the value of the lots that are a part of The Farms Subdivision, have agreed to amend certain of the covenants contained in the Covenants and Second Amendment in order to resolve any uncertainty, and desire to join in the execution and recording of this Amendment to complete and document such amendments.

NOW THEREFORE, in order to amend the Covenants and Second Amendment, the undersigned owners of all of the lots in The Farms Subdivision agree as follows:

#### **1. AMENDMENT OF SECTION 5.02**

The owners of all of the lots in The Farms Subdivision to the City of Bentonville, Benton County, Arkansas by their signatures below hereby amend Section 5.02 of the Covenants and Section 5.02 of the Second Amendment to read as follows:

“5.02 Amendments. The Covenants and Restrictions for The Farms Subdivision, City of Bentonville, Benton County, Arkansas and any amendments thereto may be amended, altered or modified only by written declaration, signed and acknowledged by the Owners of 100% of the Lots in The Farms Subdivision, and filed of record in the office of the Circuit Clerk and Ex-Officio Recorder of Benton County, Arkansas. No amendment, alteration or modification shall be allowed that would be in violation of any federal, state, county, or municipal law, regulation or ordinance.”

#### **2. ESTABLISHMENT OF PROPERTY OWNERS ASSOCIATION AND ARCHITECTURAL CONTROL COMMITTEE**

The owners of all of the lots in The Farms Subdivision to the City of Bentonville, Benton County, Arkansas by their signatures below hereby agree that the property owners association and architectural control committee anticipated and provided for in the Declaration of First Amendment of Covenants and Restrictions for The Farms Subdivision, City of Bentonville, Benton County, Arkansas recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Benton County, Arkansas, on December 27, 2007 in Book 2007 at Page 52147 and in the Declaration of Second Amendment of Covenants and Restrictions for The Farms Subdivision, City of Bentonville, Benton County, Arkansas recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Benton County, Arkansas, on December 17, 2008 in Book 2008 at Page 50484 shall be established and governed subject to the following provisions:

A) The Farms Property Owners Association (the "FARMSPOA") shall be established as an Arkansas non-profit entity. The members of the FARMSPOA shall be the owners of all of the lots that are a part of The Farms Subdivision. The FARMSPOA shall be governed by a board of directors elected by the members of the FARMSPOA. In connection with the election of directors the members shall be entitled to one vote for each lot owned multiplied by the number of director positions for which they are entitled to vote and to cast the product for a single candidate or distribute the product among two or more candidates (cumulative voting), with directors elected by a plurality the votes cast in the election at a meeting at which a quorum is present. In connection with all other matters that come before the members of the FARMSPOA for decision, the members shall be entitled to one vote for each lot owned. If a single lot is owned by more than one person, the vote(s) for such lot shall be a determined among the persons or entities holding ownership interests in such lot. The board of directors of the FARMSPOA shall serve at the pleasure of the members of the FARMSPOA and all or any of the directors may be removed from the board at any meeting of the members of the FARMSPOA called for such purpose by the affirmative vote of members holding the number of votes that would be necessary to prevent the election of such director or directors. In the event any director is removed, resigns or otherwise ceases to act as a director, the vacancy so created shall be filled by a vote of the members.

B) The Farms Architectural Control Committee (the "FARMSACC") shall be a committee appointed or selected by the FARMSPOA, and shall serve at the pleasure of the FARMSPOA. Members of the FARMSACC may, but need not be members or directors of the FARMSPOA. Appointment or selection of the members of the FARMSACC shall be done in such manner as determined by the FARMSPOA. Any member of the FARMSACC may be removed and replaced at any time by the FARMSPOA. Because the developer described in the Declaration of First Amendment of Covenants and Restrictions for The Farms Subdivision, City of Bentonville, Benton County, Arkansas recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Benton County, Arkansas, on December 27, 2007 in Book 2007 at Page 52147 and in the Declaration of Second Amendment of Covenants and Restrictions for The Farms Subdivision, City of Bentonville, Benton County, Arkansas recorded in the office of the Circuit Clerk and Ex-Officio Recorder of Benton County, Arkansas, on December 17, 2008 in Book 2008 at Page 50484 has ceased to act as such developer, the FARMSACC shall begin to exercise the powers and responsibilities as promptly as its members are selected and appointed.

IN WITNESS WHEREOF, the undersigned, being the owners of all of the lots in The Farms Subdivision, Bentonville, Benton County, Arkansas, have hereunto set their hands and seals on the dates shown beside their signatures.

SIGNATURE PAGES FOLLOW

OWNERS' SIGNATURE PAGE – LOTS 1 – 30, 36, 39, 40, 42 and 44 – 59

ARVEST BANK

By: *Robert Boehmler*  
ROBERT BOEHMLER, Executive Vice President

Date: May 9, 2009

By: *Anthony H. Bornhoft* S.V.P.  
ANTHONY H. BORNHOFT, Sr. Vice President

Date: May 9, 2009

**ACKNOWLEDGMENT**

STATE OF ARKANSAS)

: ss

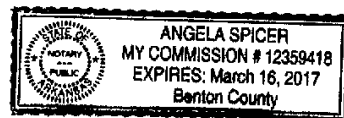
COUNTY OF BENTON)

ON this day before me, a Notary Public, duly commissioned, qualified and acting, within and for the County and State, appeared in person the within named ANTHONY H. BORNHOFT and ROBERT BOEHMLER, to me personally well known, who stated that they were the Sr. Vice President and Executive Vice President of the ARVEST BANK, a corporation, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said corporation, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

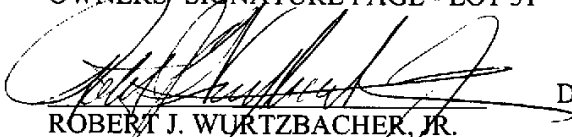
IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 9th day of May, 2009.

*Angela Spicer*  
Notary Public

My Commission Expires:  
3-16-17

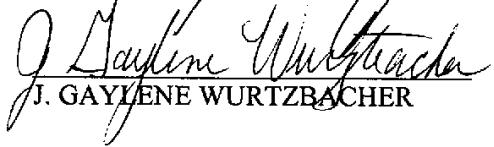


OWNERS' SIGNATURE PAGE - LOT 31



Date: May 27, 2009

ROBERT J. WURTZBACHER, JR.



Date: May 27, 2009

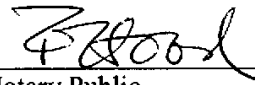
J. GAYLENE WURTZBACHER

**ACKNOWLEDGMENT**

STATE OF ARKANSAS)  
:ss  
COUNTY OF BENTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public duly commissioned and acting within and for the County aforesaid, ROBERT J. WURTZBACHER, JR. and J. GAYLENE WURTZBACHER, husband and wife, to me well known as the persons whose signatures to the attached Amendment to Covenants appear immediately above, and stated that they had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this 27 day of May, 2009.

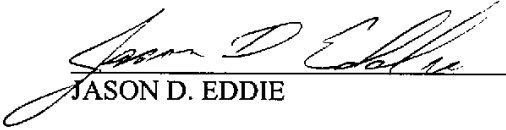
  
\_\_\_\_\_  
Notary Public

My Commission Expires:  
4-4-17

**RICKARD W. HOOD**  
NOTARY PUBLIC-STATE OF ARKANSAS  
BENTON COUNTY  
My Commission Expires 4-4-2017  
Commission Number 12359923



OWNERS' SIGNATURE PAGE - LOT 32

  
JASON D. EDDIE

Date: May 27, 2009

  
SAMMI M. EDDIE

Date: May 27, 2009

ACKNOWLEDGMENT

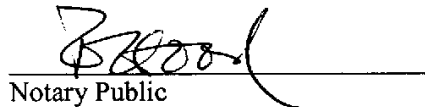
STATE OF ARKANSAS)

:SS

COUNTY OF BENTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public duly commissioned and acting within and for the County aforesaid, JASON D. EDDIE and SAMMI M. EDDIE, husband and wife, to me well known as the persons whose signatures to the attached Amendment to Covenants appear immediately above, and stated that they had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this 27 day of May, 2009.

  
Notary Public

My Commission Expires:

4-4-17

RICKARD W. HOOD  
NOTARY PUBLIC-STATE OF ARKANSAS  
BENTON COUNTY  
My Commission Expires 4-4-2017  
Commission Number 12369923

OWNERS' SIGNATURE PAGE - LOT 33

Aaron Lynn Jones  
AARON LYNN JONES

Date: May 27, 2009

Michelle Jones  
MICHELLE JONES

Date: May 27, 2009

ACKNOWLEDGMENT

STATE OF ARKANSAS)

:SS

COUNTY OF BENTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public duly commissioned and acting within and for the County aforesaid, AARON LYNN JONES and MICHELLE JONES, husband and wife, to me well known as the persons whose signatures to the attached Amendment to Covenants appear immediately above, and stated that they had executed the same for the consideration and purposes therein mentioned and set forth.

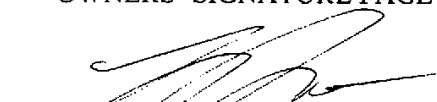
WITNESS my hand and seal as such Notary Public this 27 day of May, 2009.

Rickard W. Hood  
Notary Public

My Commission Expires:  
4-4-17

RICKARD W. HOOD  
NOTARY PUBLIC-STATE OF ARKANSAS  
BENTON COUNTY  
My Commission Expires 4-4-2017  
Commission Number 12359923

OWNERS' SIGNATURE PAGE - LOT 34

  
\_\_\_\_\_  
LANCE PATRICK TWITTY

Date: May 27, 2009

  
\_\_\_\_\_  
LISA L. TWITTY

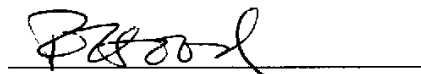
Date: May 27, 2009

**ACKNOWLEDGMENT**

STATE OF ARKANSAS)  
                                  :SS  
COUNTY OF BENTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public duly commissioned and acting within and for the County aforesaid, LANCE PATRICK TWITTY and LISA L. TWITTY, husband and wife, to me well known as the persons whose signatures to the attached Amendment to Covenants appear immediately above, and stated that they had executed the same for the consideration and purposes therein mentioned and set forth.

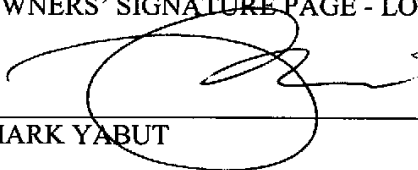
WITNESS my hand and seal as such Notary Public this 27 day of May, 2009.

  
\_\_\_\_\_  
Notary Public

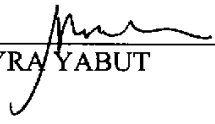
My Commission Expires:  
4-4-17

**RICKARD W. HOOD**  
NOTARY PUBLIC-STATE OF ARKANSAS  
BENTON COUNTY  
My Commission Expires 4-4-2017  
Commission Number 12359923

OWNERS' SIGNATURE PAGE - LOT 35

  
\_\_\_\_\_  
MARK YABUT

Date: May 27, 2009

  
\_\_\_\_\_  
MYRA YABUT

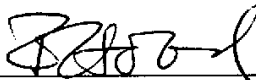
Date: May 27, 2009

**ACKNOWLEDGMENT**

STATE OF ARKANSAS)  
  :SS  
COUNTY OF BENTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public duly commissioned and acting within and for the County aforesaid, MARK YABUT and MYRA YABUT, husband and wife, to me well known as the persons whose signatures to the attached Amendment to Covenants appear immediately above, and stated that they had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this 27 day of May, 2009.

  
\_\_\_\_\_  
Notary Public


My Commission Expires:  
4-4-17

**RICKARD W. HOOD**  
NOTARY PUBLIC-STATE OF ARKANSAS  
BENTON COUNTY  
My Commission Expires 4-4-2017  
Commission Number 12359923

OWNERS' SIGNATURE PAGE - LOT 37

  
CLYDE McCABE

Date: May 27, 2009

  
EUNICE I. McCABE

Date: May 27, 2009

ACKNOWLEDGMENT

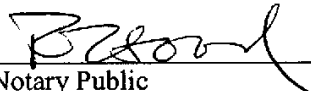
STATE OF ARKANSAS)

:SS

COUNTY OF BENTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public duly commissioned and acting within and for the County aforesaid, CLYDE McCABE and EUNICE I. McCABE, husband and wife, to me well known as the persons whose signatures to the attached Amendment to Covenants appear immediately above, and stated that they had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this 27 day of May, 2009.

  
Notary Public

My Commission Expires:

4-4-17

**RICKARD W. HOOD**  
NOTARY PUBLIC-STATE OF ARKANSAS  
BENTON COUNTY  
My Commission Expires 4-4-2017  
Commission Number 12359923

OWNERS' SIGNATURE PAGE - LOT 38

G. Broadhurst  
GARETH BROADHURST

Date: ~~May~~ <sup>June</sup> \_\_, 2009

L. Broadhurst  
LOUISE BROADHURST

Date: ~~May~~ <sup>June</sup> \_\_, 2009

ACKNOWLEDGMENT

STATE OF ARKANSAS)  
:SS  
COUNTY OF BENTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public duly commissioned and acting within and for the County aforesaid, GARETH BROADHURST and LOUISE BROADHURST, husband and wife, to me well known as the persons whose signatures to the attached Amendment to Covenants appear immediately above, and stated that they had executed the same for the consideration and purposes therein mentioned and set forth.


WITNESS my hand and seal as such Notary Public this 8<sup>th</sup> day of ~~May~~ <sup>June</sup>, 2009.

Rickard W. Hood  
Notary Public

My Commission Expires:  
4-4-17

**RICKARD W. HOOD**  
NOTARY PUBLIC-STATE OF ARKANSAS  
BENTON COUNTY  
My Commission Expires 4-4-2017  
Commission Number 12359923

OWNERS' SIGNATURE PAGE - LOT 41

  
GEORGE A. MILLARD Date: May 27, 2009

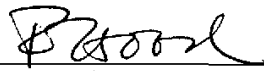
  
ELIZABETH G. MILLARD Date: May 27, 2009

**ACKNOWLEDGMENT**

STATE OF ARKANSAS)  
:SS  
COUNTY OF BENTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public duly commissioned and acting within and for the County aforesaid, GEORGE A. MILLARD and ELIZABETH G. MILLARD, husband and wife, to me well known as the persons whose signatures to the attached Amendment to Covenants appear immediately above, and stated that they had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this 27 day of May, 2009.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:  
4-4-17

**RICKARD W. HOOD**  
NOTARY PUBLIC-STATE OF ARKANSAS  
BENTON COUNTY  
My Commission Expires 4-4-2017  
Commission Number 12359923

OWNERS' SIGNATURE PAGE - LOT 43

  
CLINTON J. WASHAM

Date: May 27, 2009

  
SANDRA K. WASHAM

Date: May 27, 2009

**ACKNOWLEDGMENT**

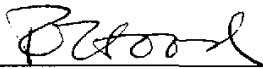
STATE OF ARKANSAS)

:ss

COUNTY OF BENTON)

BE IT REMEMBERED, that on this day came before the undersigned, a Notary Public duly commissioned and acting within and for the County aforesaid, CLINTON J. WASHAM and SANDRA K. WASHAM, husband and wife, to me well known as the persons whose signatures to the attached Amendment to Covenants appear immediately above, and stated that they had executed the same for the consideration and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public this 27 day of May, 2009.



Notary Public

My Commission Expires:

4-4-17

**RICKARD W. HOOD**  
NOTARY PUBLIC-STATE OF ARKANSAS  
BENTON COUNTY  
My Commission Expires 4-4-2017  
Commission Number 12359923