

File# 2024-00009968

**DECLARATION OF COVENANTS OF ASSURANCE AND
RESTRICTIONS OF DEER VALLEY SUBDIVISION TO THE
WASHINGTON COUNTY, ARKANSAS**

KNOW ALL BY THESE PRESENTS:

That STEVE AND KELLYE SMITH INVESTMENTS, LLC, an Arkansas limited liability company, being the owner and developer (“Developer”) of the property referenced in Exhibit A, said property having been duly platted as Deer Valley Subdivision, a subdivision in Washington County, Arkansas (the “Subdivision”), said final plat being recorded in the office of the Clerk and Ex-Officio recorder of Washington County, Arkansas, on April 25, 2024, as File No. 0024-00000556, for the purpose of keeping said Subdivision desirable, uniform and suitable in architectural design and use as herein specified, and to provide for the orderly development of the Subdivision, does hereby make this Declaration of Covenants of Assurance and Restrictions (this “Declaration”) setting forth the following limitations, restrictions and uses of the property the Subdivision.

Developer does hereby state that this Declaration shall establish covenants running with the land for the period of hereinafter set forth, as provided by law and shall be binding upon all purchasers and owners of the lots of the Subdivision and upon such owners’ heirs, personal representatives, successors and assigns, and upon all persons claiming under them.

It shall be lawful for the Deer Valley Property Owners Association (hereinafter referred to as the “Association” and more particularly defined herein) or for any other person or persons owning real property situated in the Subdivision to initiate any proceedings at law or in equity against parties or persons violating or attempting to violate any of this Declaration. The invalidation of any one provision of this Declaration by a court order shall not invalidate any of the other provisions which shall remain in full force and effect.

ARTICLE I

Property Subject to this Declaration

1.1 Subject Property. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, is located and situated in Washington County, Arkansas, and which Subdivision is located on the following lands, to-wit:

SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF.

*Declaration of Covenants of Assurance and
Restrictions of Deer Valley Subdivision
Page 1 of 15*

ARTICLE II
Definitions

2.1 Definitions. The following words, when used in this Declaration or any amendments or supplements thereto (unless the context shall otherwise clearly indicate or prohibit), shall have the respective concepts and meanings set forth below:

a. "Addition" or "Subdivision" shall mean and refer to the property described in Exhibit A and as reflected on the plat set out on Exhibit B and any additions thereto.

b. "ARC" shall mean and refer to the Architectural Review Committee as established herein.

c. "Association" shall mean and refer to Deer Valley Property Owners Association, an unincorporated association in the state of Arkansas, its successors and assigns.

d. "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Association elected in accordance with the provisions of the Association's governing documents.

e. "Builder" shall mean a residential builder licensed under Arkansas law.

f. "Common Property" shall mean and refer to any and all areas of land together with all improvements located thereon within the Subdivision which are known, described or designated as such on any recorded subdivision plat of the Subdivision or intended for or devoted to the common use and enjoyment of the members of the Association including but not limited to all sidewalks, easements, private drives, and drainage detention ponds. The Association shall hold such title to the Common Property as shall be consistent with the objectives envisioned herein and subject to the easement rights herein of the members to use and enjoy the Common Property. The Developer reserves the right to affect minor redesigns or reconfiguration of the Common Property.

g. "Declaration" means this Declaration of Covenants of Assurance and Restrictions of Deer Valley Subdivision in Washington County, Arkansas.

h. "Developer" shall mean and refer to Steve and Kellye Smith Investments, LLC, and its successors and assigns.

i. "Developer Control Period" shall have the meaning set forth in Article III, "Rights Reserved for Developer."

j. "Dwelling(s)" shall mean and refer to a single-family residence constructed on a Lot in the Subdivision.

k. "Improvement" shall mean and include all Dwellings, buildings and roofed structures, parking areas, fences, walls, hedges, mass plantings, poles, towers, antennas, driveways, swimming pools, signs, changes in any exterior color or shape, glazing or re-glazing of exterior windows with mirrored or reflective glass, and any other new exterior construction or exterior improvement which materially alters the appearance of any Lot and which may not be included in any of the foregoing.

l. "Lot" or "Lots" shall mean and refer to any plot or tract of land which is designated as a lot on the Plat which is attached hereto and labeled Exhibit B. No lot as set forth on Exhibit B may be further subdivided or split; provided however minor adjustments to lot lines or boundaries may be made from time to time to cure title problems or to resolve procedures created by encroachments so long as such adjustments are first approved by the Board and Developer if any lots are unsold and closed.

m. "Member(s)" or "member(s)" shall mean and refer to each owner of a Lot.

n. "Owner(s)" or "owner(s)" shall mean and refer to each and every person or business entity who or which is a record owner or subsequently becomes a record owner of a fee or undivided fee interest in any Lot subject to these covenants.

o. "Plat" shall refer to the Deer Valley Subdivision Final Plat set out in Exhibit B attached hereto, as well as any amended plats or additional recorded plats of future approved phases of the Subdivision.

p. "Property" means Deer Valley Subdivision and is more particularly described in Exhibit A hereto.

ARTICLE III

Rights Reserved for Developer

3.1 Developer Control Period. The Developer Control Period for the Subdivision (the "Developer Control Period") begins when the Developer executes its first contract with a third-party purchaser to purchase a Lot and shall terminate no later than sixty (60) days after Developer deeds at least ninety-five percent (95%) of all Lots created or as may be created in Developer's sole discretion from the Property, but in no event later than ten (10) years from the date the Developer transfers and deeds its first Lot within the Subdivision to a third-party purchaser. Once the Developer Control Period terminates, the Developer Control Period shall not be extended or reactivated. The Developer shall have the right, but not the obligation, to terminate the Developer Control Period at any time in its sole discretion by filing an instrument in the real estate records of Washington County, Arkansas providing for such termination.

3.2 Leases. During the Developer Control Period, the Association shall not enter into any lease and/or contract for goods and services for the Property that extends beyond the Developer Control Period. Any contract and/or lease in contravention of the foregoing sentence shall be voidable at the option of the Association.

3.3 Easement. Developer expressly reserves a perpetual easement over all driveways, parking areas, sidewalks and utility easements comprising a portion of the Common Property to connect them with other driveways, parking areas, sidewalks and utility easements within the Subdivision, the location of which shall be selected by the Developer.

3.4 Association board membership. During the Developer Control Period, the Board shall consist solely of members appointed and determined by Developer and Developer reserves the right, in its sole discretion, to appoint and remove members of the Board for any reason.

3.5 Amendments.

a. Developer reserves the right to amend or supplement this Declaration in any manner necessary to establish the validity and enforceability of this Declaration or to bring this Declaration into compliance with federal law, the laws of the State of Arkansas or any common law principle or judicial decision that may affect the validity and enforceability of this Declaration.

b. Developer reserves the right to amend or supplement this Declaration in any manner necessary to satisfy the requirements of any title insurance company that may be called upon by the Developer to issue title insurance policies to Owners, provided such amendment is reasonably required to support the validity and enforceability of this Declaration.

c. Except as otherwise may be provided in this Declaration so long as Developer owns any Lot, Developer reserves the right at any time and from time to time to unilaterally amend this Declaration as it deems appropriate, in its sole discretion, to carry out the purposes of the Subdivision established in this Declaration, or to correct an error or omission, or to address and/or correct any matter required by any lending institution, public body or title insurance company, or to change the configuration or size of any lands or Lots subject to this Declaration, or to facilitate the operation and management of the Subdivision and the Association, or the sale of Lots. Such an amendment by the Developer may be made unilaterally, without the approval of any other party, and shall become effective upon the recording of an instrument executed by the Developer in the real estate records of Washington County, Arkansas, setting forth the amendment; provided, however, that no such amendment to this Declaration may change to any material extent the configuration or size of any Lot or change the proportion or percentage by which an Owner shares the expenses of the Association, unless such amendment is also approved by at least a majority vote of the Owners.

3.6 Additional Phases. The Developer reserves, unto itself, the right, without joinder, vote or consent of any Owner, Builder or Mortgagee, to file additional plats in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas to add additional phases which shall be subject to this Declaration. With regard to such additional phases, Developer further reserves, unto itself, in its sole discretion, the right, without joinder, vote or consent of any Owner, Builder or Mortgagee, to change the minimum square footage as stated in Section 4.12 herein.

ARTICLE IV
Restrictions on Residential Lots

4.1 Fences. Only fences constructed of metal (steel, iron, aluminum, etc.) may be installed on Lots, and such fences shall be located in the back yard only. There shall be no other type of fencing allowed. Any fence, once constructed, must be maintained by the property owner who had it constructed or their successor-in-interest. No fences shall be permitted in the front yard. Any fence shall begin at least ten feet back from the front corner of the house and shall not exceed a height of four and one-half feet.

4.2 Nuisances. No noxious or offensive activities or nuisances shall be permitted on any Lot.

4.3 Signs. No person shall erect or maintain upon any Lot, or improvement thereto, any sign or advertisement, except a real estate sign when the property is listed for sale, provided, however, that this restriction shall not apply to Developer during development and construction of the Subdivision.

4.4 Animals. No animals shall be kept or maintained on any Lot except the usual household pets which shall be kept reasonably confined via fence or leash so as not to become a nuisance and all Owners shall comply with applicable laws, ordinances and regulations concerning animals. No Owners shall be permitted to breed any pets for commercial use. There shall be no livestock permitted in the Subdivision.

4.5 Garbage and Refuse Disposal. No Owner shall accumulate on his or her Lot litter, refuse or garbage, except in approved receptacles. All Owners shall be required to have a mandatory trash pick-up as provided or required by the City of Tontitown, Arkansas or a private sanitation company. Garbage collection receptacles shall be kept hidden so not visible from any street except on the day before or day of pickup.

4.6 Limited Access. There shall be no access to any Lot on the perimeter except from designated streets or roads within the Subdivision.

4.7 Drilling and Mining. No drilling, refining, quarrying or mining operations of any kind shall be permitted on any Lot.

4.8 Communication Towers and Satellite Dishes. No communications mast, tower, or structure may be installed on any Lot, except that satellite dishes may be installed only on the rear roof of a dwelling and shall not exceed the height of the lowest roof ridge line of such dwelling.

4.9 Parking on the Streets. No vehicles may be parked overnight in the streets of the Subdivision. Owners shall provide sufficient off-street parking to accommodate the vehicles used by their families and guests. Furthermore, no semi-trailer trucks or commercial vehicles shall be allowed to park in the Subdivision, either on the streets or on the Lots, provided, however, that this restriction shall not apply to Developer during construction and development of the Subdivision.

No vehicles may be parked in front yard at any time. Any inoperable vehicles shall be kept in the owner's garage.

4.10 Structures other than Dwellings. No trailer, mobile home, tent, shack, or other unsightly building or structure, temporary or permanent, shall be erected or used on said lots. However, it is permissible to have a storage building in the rear yard of a Dwelling provided that (a) the square footage of such storage building does not exceed 2,400 square feet and (b) is constructed of the same or similar material, design and colors of the Dwelling which it accompanies. Before any such storage building can be erected or constructed, the Owner must submit plans (or in the case of a resin building, submit dimensions and image) to the Association's ARC for its approval. The restrictions contained in this section shall not apply to the Developer during construction and development of the Subdivision.

4.11 Recreational Vehicles and Boats. Recreational and camping vehicles, side-by-sides, jet skis, and boats shall be stored and parked on the Lots in a garage or storage building.

4.12 Minimum Square Footage. All Dwellings in the Subdivision shall have a minimum of two thousand eight hundred (2,800) square feet of heated area, to include a minimum of two thousand four hundred (2,400) square feet on the first floor if the Dwelling is two stories. The minimum square footage requirement is exclusive of garages, porches, patios and decks. Irrespective of other provisions regarding amendments of these covenants, the minimum square footage requirements cannot be amended except with the express approval of the Developer.

4.13 Restriction of Type of Dwelling. There shall be no Dwellings erected on any Lot other than a detached single-family dwelling. No buildings used for commercial purposes shall be permitted.

4.14 Approval of Plans by ARC. All plans for improvements to be constructed on each Lot shall be first submitted for review and approval by the ARC. Approval by the ARC must be obtained in writing before construction of any improvement on any Lot begins and any variances to the improvement initially approved must be authorized in writing by the ARC. Developer is exempt from this requirement to obtain written approval from the ARC.

4.15 Exterior of Dwellings. All exterior walls of all Dwellings erected on the Lots shall be finished with brick, stone, faux stone veneer construction, or concrete composition siding (such as Hardie® siding). Dormers or gables may be covered with any of the aforementioned materials. Soffits and fascia may be covered with steel, aluminum or concrete composition materials. Roofs shall be covered with shingles using architectural composition or better (including metal roofs). Lot 12 is exempt from this requirement.

4.16 Lot Maintenance and Sod. All Lots shall be maintained, mowed and kept free of noxious weeds whether they be improved or unimproved. Further, upon construction of a dwelling, the yard shall have seed and straw laid down, provided, however, that this section shall not apply to Developer during construction and development of the Subdivision. If Owner allows grass to grow such that it is more than 4 inches high, Developer or Association, shall have the right, but not the obligation, to have it mowed without giving notice to the Owner and shall charge a seventy-

five dollars (\$75.00) service charge for arranging the mowing in addition to the amount it costs Developer or Association to have it mowed.

4.17 Platted easements. All Lots are subject to easements that are shown on the Plat, including, but not limited to, easements for fences and entry signs.

4.18 Covenants to Run with the Land. All covenants and restrictions set forth in this Declaration are to run with the land and shall be binding on all parties, their successors, heirs and assigns, for a period of thirty (30) years from the date this Declaration is recorded; provided, however, that any time after the date this Declaration is recorded, the covenants and restrictions may be amended at any time by the record owners of at least sixty percent (60%) of the votes entitled to be cast by owners of Lots. The Developer shall have four (4) votes per Lot which Developer owns. All other Lot owners shall have one (1) vote per Lot. Such amendments shall be made and executed by said record owners so as to be recorded with the registrar of deeds of Washington County, Arkansas. Provided, further, that after the expiration of the thirty (30) year period set forth above and any time within six (6) months from said expiration, a majority of the Lots, through their record owners, may express their intention, in writing, so drafted and executed as to be recorded with the registrar of deeds in Washington County, Arkansas, that they no longer care for the covenants, and the same shall then be terminated. In the event that no action is taken within the prescribed time, this Declaration shall continue for additional periods of ten years, and for any such ten-year period, said covenants may be terminated in accordance with the terms for the original termination

4.19 Sex Offender Restriction. No person who is required to register as a sex offender pursuant to the Sex Offender Registration Act of 1997, Ark. Code Ann. 12-12-901, et seq., as amended from time to time or any other similar federal, state or local law, regulation, or ordinance may rent, reside in, own or occupy any Lot or Dwelling in the subdivision either permanently or temporarily.

4.20 Driveways. Access driveways and other paved areas for vehicular use on a Lot shall have a base of gravel, crushed stone or other approved base material and shall be surfaced with concrete or asphalt.

4.21 Building Height. No Dwelling shall be erected, altered, or placed on a Lot which shall contain more than two (2) stories.

4.22 Garage. Each Dwelling shall have an attached garage that can accommodate a minimum of two (2) cars. A detached metal garage, in colors that coordinate with the Dwelling, is permissible. Metal garages may be a maximum of one thousand two hundred (1,200) square feet in size. Metal garages may also have a metal roof, provided the colors coordinate with the Dwelling. Before any such garage can be constructed, the Owner must submit plans to the Association's ARC for its approval. No commercial business may be run out of either garage.

4.23 Setbacks. Notwithstanding anything on the Plat, all Lots shall have a 75' minimum setback from the front lot line and 20' setbacks on each side and the rear of the Lots.

4.24 Solar Panels. Solar panels are permissible, provided they are attached on the back or sides of the Dwelling. No ground mount solar panels are permitted in the front yard of a Lot.

4.25 Basketball Goals. Any basketball goal installed on a Lot shall be in-ground only.

4.26 Pools. No above-ground pools are permitted; pools shall be in-ground pools only.

4.27 Mailboxes. Mailboxes are to be provided by Owners and shall be made of cast-iron or brick only.

ARTICLE V

Property Owners Association

5.1 Association. The Association has been or will be formed as an unincorporated association. All Lot Owners must be members of the Association and each shall automatically become a member of the Association upon the conveyance of a Lot to him or her. The Association shall be governed by By-Laws accepted and approved by the Association. All association memberships will pass with Lot ownership in the Subdivision. All Lots will carry one (1) vote in the Association, except that the Developer shall have four (4) votes per Lot which Developer owns.

5.2 Creation of Lien: Each Owner of any Lot of the Subdivision, by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed, contract of purchase, or other conveyance, shall be deemed to covenant and agree to pay to the Association annual assessments or charges; and special assessments for capital improvements and other purposes. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. In no event shall an annual or special assessment be applicable at any time to any Lot owned by the Developer and the Developer shall not be obligated to pay any annual or special assessment.

5.3 Purpose of Assessments. The assessments levied pursuant hereto by the Association shall be used for the purposes of acquisition, improvement and maintenance of the Common Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the common properties, insurance thereon, and repair, replacement, and modifications thereto, and for the cost of labor, equipment, materials, management and supervision thereof. In addition, assessments may also be used for expenses related to the necessary and reasonable operation of the Association, including, but not limited to, collection of assessments and related costs and enforcement of the covenants and restrictions of the Subdivision.

5.4 Basis and Maximum of Annual Assessments: The annual assessment for each lot shall be \$300.00. An Owner's first such assessment shall be prorated and paid to the Association at closing according to time of conveyance of a Lot to the Owner. The annual assessment may be increased, as hereinafter provided, by a majority vote of the votes entitled to be cast by the members of the Association for the next succeeding "assessment year" (beginning January 1) and at the end of each such period of one year for each succeeding period of one year. At no time shall the annual assessment per lot be increased more than twenty-five percent (25%) above the prior

year's annual assessment. Said annual assessment shall be payable in advance on the 1st day of January each year. The Board of Directors may, after consideration of current maintenance costs and future needs of the Association, fix the actual assessment for any year at a lesser amount.

5.5 Special Assessments for Capital Improvements. In addition to the annual assessments authorized hereinabove, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the common properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of 2/3 of the votes entitled to be cast by members of the Association who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be mailed to all members at the last known address of each member at least fifteen (15) days in advance and shall set forth the purpose of the meeting.

5.6 Quorum for any Action Authorized Under This Article. The quorum of any action authorized by this Article, the presence at the meeting of members, or of proxies, entitled to cast fifty percent (50%) of all votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in this Article.

5.7 Late Payment of Assessments. As hereinabove provided, each annual assessment shall be due and payable on the 1st day of January of each year. In the event of default as to any payment (annual or special), and if the default is not remedied within ninety (90) days, the Association shall have the option of taking such action as permitted by law or equity and by this Declaration and the By-laws of the Association. An additional late charge of ten percent (10%) shall be assessed on any payment which is more than ninety (90) days delinquent. Costs of collection of the assessment, including reasonable attorneys' fees therefor, shall also be assessed.

5.8 Duties of the Board of Directors. In addition to the other duties of the Board of Directors as may be set forth herein or in the By-laws of the Association, the said Board of Directors shall fix the date of any special assessment against each lot for any special assessment period at least thirty (30) days in advance of such special assessment, written notice of the special assessment shall thereupon be sent to every member subject thereto at the last known mailing address of such member.

5.9 Effect of Non-Payment of Assessment and the Lien Remedies of the Association. If the assessments (annual or special) are not paid on the date when due, then such assessment shall be come delinquent as provided in this Article and shall, together with such interest, late charges thereon and costs of collection thereof as herein provided, thereupon become a continuing lien on the lot which shall bind such lot in the hands of the then owner, its successors, heirs, devisees, personal representatives and assigns. If the assessment is not paid as provided herein, it shall bear interest from date of delinquency at the maximum rate of interest allowed by law, not to exceed ten percent (10%) per annum, and the Association may foreclose the lien against said lot, and there shall be added to the amount of such assessment the cost of attorney fees in connection

with any court proceedings arising therefrom, together with all court costs, late charges and expenses incurred by the Association.

5.10 Subordination of the Lien or Mortgages: The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust now or hereafter placed upon the lots subject to assessment; provided however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such lot pursuant to a Decree of Foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

5.11 Suspension of Rights of Membership: Prior to the foreclosure of any lien upon any lot subject to this Declaration, the Board of Directors of the Association may elect to suspend all membership rights of any member or members of the Association who are delinquent in any payment due to the Association for more than thirty (30) days, with such suspension to continue for so long as any such delinquency exists. Further, the Board of Directors may suspend membership rights for a period not to exceed thirty (30) days for the infraction of any rules or regulations by the member, family of the member or guest of the member, relating to the use of any of the common properties. Suspension of membership rights shall be effective from the date that notice of suspension is mailed to the member via U.S. Certified mail, return receipt requested, postage prepaid, to the last known address of the said member.

5.12 Cancellation and Hearing. The said Board of Directors may elect to permanently cancel the membership and all membership rights of any member who is delinquent in any payment due to the Association for more than ninety (90) days or when such member, family of the member, or guest of the member are guilty of repeated or flagrant violation(s) after a hearing conducted by said Board of Directors, which notice of such hearing mailed to such member at least thirty (30) days in advance of said hearing date, and further provided that such member may appeal any such decision of said Board of Directors to the membership of the Association by such affected member calling a special meeting of the membership of the Association by notice mailed to each member at least ten (10) days in advance of the desired special meeting date, and said notice setting forth the time, date, place and purpose of said meeting. A majority vote of the votes entitled to be cast by the members of the Association attending such special meeting shall be necessary to override the decision of the Board of Directors, and all votes shall be by secret ballot. Notice shall be mailed by the member via U.S. Certified mail, postage prepaid, return receipt requested.

5.13 Powers and Duties. The affairs of the Association shall be conducted by its Board of Directors (sometimes referred to as the "Board"). The Board, for the benefit of the Association, the Subdivision, and the Owners, may provide and may pay for, out of the assessment fund(s) provided above, any or all of the following:

- a. Care, preservation and maintenance of the Common Property and the furnishing and upkeep of any personal property and fixtures, for use in or on the Common Property;

b. Taxes, insurance, and (including, without limitation, electricity, gas, water, and sewer charges), if any, which pertain to the Common Property only;

c. The services of any person or firm (including the Developer and any affiliates of the Developer) to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board, and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by a manager hired by the Board;

d. Legal and accounting services; and

e. Any other materials, supplies, equipment, labor, services, maintenance, repairs, structural alterations, taxes, or assessments which the Board is required to obtain or pay for pursuant to the terms of Declaration or which in its opinion shall be necessary or proper for the operation or protection of the Association and the Subdivision or for the enforcement of this Declaration.

5.14 Other Powers. The Board shall have the following additional rights, powers and duties:

a. To enter into contacts, maintain one or more bank accounts and, generally, to have all the powers necessary or incidental to the operation and management of the Association;

b. To make reasonable rules and regulations for the operation of the Common Property and, subject to the limitations herein, to amend this Declaration from time to time; and

c. To contract with any Owner (including, without limitation, the Developer) for performance, on behalf of the Association, of services which the Association is otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable, and in the best interests of the Association.

5.15 Liability Limitations. Neither any member or Owner nor the directors and officers of the Association shall be personally liable for debts contracted for or otherwise incurred by the Association or for any torts committed by or on behalf of the Association or otherwise. The Developer and the Association and their respective directors, officers, agents, and employees, shall not be held liable for any incidental or consequential damages for failure to inspect any premises, improvements or portion thereof, or for failure to repair or maintain the same.

5.16 Reserve Funds. The Board may establish reserve funds which may be maintained and accounted for separately from other funds maintained for annual operating expenses.

ARTICLE VI
Architectural Review Committee

6.1 Designation of ARC. The ARC shall be comprised of at least two (2) and not more than five (5) members who shall be natural persons. Initially, the ARC shall consist of Steven Smith and Rick Nichols, or their assigns, who shall serve until their resignation. Should either of the initial ARC members resign during the Developer Control Period, the non-resigning member shall appoint the successor. Upon the resignation of the initial ARC members after the end of the Developer Control Period, the Association may change the number and composition of the ARC in accordance with the Association's governing documents.

6.2 Function of the ARC. No dwelling, building, structure or other improvement shall be constructed or maintained upon any Lot and no alteration or repainting to the exterior of a dwelling, building, structure or other improvement shall be made and no landscaping performed unless complete plans, specifications, and site plans showing the exterior design, height, building material and color scheme, the location of the structure plotted horizontally and vertically, the location and size of driveways, the general plan of landscaping, fencing walls and windbreaks, sewage systems and the grading plan shall have been submitted in writing to and approved in writing by the ARC prior to the commencement of construction. Once the ARC has approved the plans and specifications, the ARC shall issue a permit to the Owner authorizing to commence the construction ("Permit"). A copy of the plans, specifications, and Lot plans as finally approved shall be deposited with the ARC. The ARC shall have the power to employ professional consultants to assist it in discharging its duties. The decisions of the ARC shall be final, conclusive and binding upon the applicant.

6.3 Content of Plans and Specifications. The plans and specifications to be submitted and approved shall include the following:

a. A statement by the Owner and his architect, designer or other qualified person undertaking the design of the proposed improvements that such parties have visited the site and have reviewed and are familiar with the applicable provisions of this Declaration, including the following design guidelines.

b. Floor plans for all floors indicating interior room dimensions and use, the location and size of exterior windows, doors and other openings, the location of mechanical and electrical systems, or any other conceptual plans for which a review is requested by the ARC.

c. Exterior elevations providing the exterior views of all structures, fences, signs and similar improvements. The elevations shall include a brief description of all exterior materials, colors and finishes, including without limitation those of the walls, roofs, trim, chimneys, doors and windows. Building elevations shall be provided for all sides of the dwelling.

d. A site plan drawn to scale indicating (i) Property lines, including streets, rights-of-way, easements, set back lines and all dimensions; (ii) Existing grade and location

of proposed cut and/or fill, indicating approximate slope and height or depth of each (2' minimum interval); (iii) Proposed sewer system footprint; (iv) Drainage plans indicating drainage patterns away from building to swales, culverts and other drainage facilities; (v) location of contractor's temporary facility, outhouses and other temporary structures and items, to be used during construction; and (vi) Any temporary access to the site.

e. Specifications or color boards as necessary to describe the (i) exterior wall materials and colors; (ii) roof materials and colors; (iii) door materials and colors; (iv) chimney materials; (v) stained or colored pavement materials; (vi) fencing and screening material; and (vii) any other exterior site improvements. Color and material descriptions shall be keyed to the exterior elevations, differentiating between general wall colors, fascia, railing, structural elements, door, trim and accent colors, and other elements of the structure.

f. A fee in the amount of \$250.00 (checks are to be made payable to the Association) for costs or expenses the ARC may incur in reviewing, or having professionals review, the plans and specifications as submitted. Such fee shall be non-refundable. The ARC reserves the right to waive all of or a portion of this fee. The Developer is exempt from this fee requirement.

ARTICLE VII Rights Involving Common Properties

7.1 Members' Easement for Enjoyment. Subject to the provision of this article and related provisions set forth elsewhere herein, every member shall have a right of enjoyment in and to the Common Properties, subject to the rules and regulations governing such use as promulgated, from time to time, by the Association. Such right and easement shall be appurtenant to and shall pass with the conveyance of title to every lot.

7.2 Extent of Members' Rights of Enjoyment. The rights of easements of enjoyment created hereby shall be subject to the following:

a. The right of the Association to borrow money for the purpose of acquiring, constructing, improving and maintaining the Common Properties and in aid thereof to mortgage said properties or execute a deed of trust or other instrument covering said properties. In the event of default upon any such mortgage, the lender shall have a right, after taking possession of such properties, to charge service or use charges, admission and other fees as a condition to continued enjoyment by the members, and if necessary to have other relief as permitted by law;

b. The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure;

c. The right of the Association to suspend or permanently cancel the rights of any member and membership in the Association;

d. The right of the Association to charge reasonable service or use charges, admission and other fees for the use, service and enjoyment of the common properties;

e. The right of the Association to limit the number of members per lot who may be entitled to the benefit of the easement of enjoyment as to the common properties by reason of ownership of a lot;

f. The right of individual members to have exclusive use of any of the common properties as from time to time as may be granted by the Board or its designate; and

g. The right of the Association to pass and enforce rules and regulations related to use, control and maintenance of the common properties and the areas situate thereon.

ARTICLE VIII Miscellaneous

8.1 Violations. If the parties hereto, or their heirs, successors or assigns or any other person shall violate or attempt to violate any of the covenants or restrictions herein while said covenants or restrictions are still in force, it shall be lawful for any person or persons owning any interest in any Lot or Lots in the Subdivision, as well as the Association, to prosecute any violation or attempted violation of any such covenant or restriction, either to prevent the person from doing so or to recover damages or other penalties and costs, including reasonable attorney's fees for such violation.

8.2 Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

8.3 Additional Phases. The Developer reserves, unto itself, the right, without joinder, vote or consent of any Owner, Builder or Mortgagee, to file additional plats in the office of the Circuit Clerk and Ex-Officio Recorder of Washington County, Arkansas to add additional phases which shall be subject to this Declaration. With regard to such additional phases, Developer further reserves, unto itself, in its sole discretion, the right, without joinder, vote or consent of any Owner, Builder or Mortgagee, to change the minimum square footage as stated herein.

8.4 Severance. If any provision of this Declaration or any section, clause, phrase, word or the application thereof in any circumstances is held to be invalid, the validity of the remainder of this Declaration and of the application of the remaining provision shall not be affected thereby.

8.5 Waiver. Failure of any of the parties, their heirs, successors or assigns, to exercise any of the options contained herein upon breach by the other party, its heirs, successors or assigns, subject to this Declaration, shall not constitute a waiver of that party's right to exercise such option upon future breach.

**EXHIBIT A TO
DECLARATION OF COVENANTS OF ASSURANCE AND
RESTRICTIONS OF DEER VALLEY SUBDIVISION,
WASHINGTON COUNTY, ARKANSAS**

SURVEY DESCRIPTION:

PART OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION ELEVEN (11), TOWNSHIP SEVENTEEN (17) NORTH, RANGE TWENTY-NINE (29) WEST OF THE FIFTH PRINCIPAL MERIDIAN, DEER VALLEY, WASHINGTON COUNTY, ARKANSAS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SW 1/4 OF THE NW 1/4 OF SAID SECTION 11; THENCE ALONG THE NORTH LINE OF SAID SW 1/4 OF THE NW 1/4, S87°01'01"E A DISTANCE OF 1331.93 FEET TO THE NORTHEAST CORNER OF SAID SW 1/4 OF THE NW 1/4 AND A SET "MAG" NAIL IN DEER VALLEY ROAD; THENCE LEAVING SAID NORTH LINE AND ALONG THE EAST LINE OF SAID SW 1/4 OF THE NW 1/4 AND ALONG SAID DEER VALLEY ROAD, S02°32'30"W A DISTANCE OF 236.00 FEET TO A SET "MAG" NAIL IN DEER VALLEY ROAD; THENCE LEAVING SAID EAST LINE AND SAID DEER VALLEY ROAD AND ALONG THE SOUTHWESTERLY MEANDER LINE OF A DITCH, S61°13'42"W A DISTANCE OF 82.41 FEET TO A SET IRON PIN WITH CAP "PLS 1156"; THENCE S46°14'33"W A DISTANCE OF 56.42 FEET TO A SET IRON PIN WITH CAP "PLS 1156"; THENCE S43°26'45"W A DISTANCE OF 54.74 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE

S40°48'54"W A DISTANCE OF 26.68 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE S49°35'29"W A DISTANCE OF 64.54 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE S44°55'26"W A DISTANCE OF 49.10 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE S43°12'26"W A DISTANCE OF 23.91 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE S58°59'37"W A DISTANCE OF 22.34 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE S40°48'02"W A DISTANCE OF 72.63 FEET TO A SET IRON PIN WITH CAP "PLS 1156"; THENCE S46°55'43"W A DISTANCE OF 34.17 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE S50°24'32"W A DISTANCE OF 62.58 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE S47°09'30"W A DISTANCE OF 37.11 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE S40°49'00"W A DISTANCE OF 32.12 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE S42°04'37"W A DISTANCE OF 66.35 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE S48°0'37"W A DISTANCE OF 50.29 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE S37°01'13"W A DISTANCE OF 37.23 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE S42°35'18"W A DISTANCE OF 73.14 FEET TO A SET IRON PIN WITH CAP "PLS 1156" AND THE NORTHWESTERLY MEANDER LINE OF A DITCH; THENCE LEAVING SAID SOUTHWESTERLY MEANDER LINE AND ALONG SAID NORTHWESTERLY MEANDER LINE, N18°26'53"W A DISTANCE OF 11.88 FEET TO A

SET IRON PIN WITH CAP "PLS 1156" THENCE N33°59'54"W A DISTANCE OF 26.88 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE N42°25'01"W A DISTANCE OF 36.87 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE N34°18'57"W A DISTANCE OF 32.07 FEET TO A SET IRON PIN WITH CAP "PLS 1156"; THENCE N29°49'52"W A DISTANCE OF 48.79 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE N41°42'29"W A DISTANCE OF 20.82 FEET TO A SET IRON PIN WITH CAP "PLS 1156"; THENCE N50°1'42"W A DISTANCE OF 73.41 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE N40°40'03"W A DISTANCE OF 61.52 FEET TO A SET IRON PIN WITH CAP "PLS 1156"; THENCE N38°45'37"W A DISTANCE OF 68.08 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE N28°15'34"W A DISTANCE OF 40.48 FEET TO A SET IRON PIN WITH CAP "PLS 1156" THENCE N35°59'06"W A DISTANCE OF 40.17 FEET TO A SET IRON PIN WITH CAP "PLS 1156"; THENCE LEAVING SAID MEANDER LINE, N87°01'01"W A DISTANCE OF 450.00 FEET TO THE WEST LINE OF SAID SW 1/4 OF THE NW 1/4 FROM WHICH A FOUND IRON PIN WITH CAP "JENKINS PLS 688" FALLS

N87°01'01"W A DISTANCE OF 0.58 FEET; THENCE ALONG SAID WEST LINE, N02°28'20"E A DISTANCE OF 500.35 FEET TO THE POINT OF BEGINNING, CONTAINING 16.74 ACRES, MORE OR LESS, AND SUBJECT TO THE RIGHT OF WAY OF DEER VALLEY ROAD ON THE EAST SIDE THEREOF AND ALL RIGHTS OF WAY, EASEMENTS OR RESTRICTIVE COVENANTS OF RECORD OR FACT.

Washington County, AR
I certify this instrument was filed on
4/26/2024 12:20:38 PM
and recorded in REAL ESTATE

File# 2024-00009968
Kvle Svlvester - Circuit Clerk

