

10254

(DEED-MTG-MISC)
BOOK 2005 PAGE

10070

FIRST AMENDMENT TO BILL OF ASSURANCE
AND
COVENANTS AGREEMENT

This First Amendment to Bill of Assurance and Covenants Agreement is entered into by LTT, LLC, being the majority owner of the lots in Club West Estates (Phase X), and

WHEREAS, LTT, LLC, An Arkansas Limited Liability Company, being the sole owner of a tract of land caused said tract of land to be platted into Club West Estates (Phase X) addition to White County, Arkansas, and further executed a Bill of Assurance and Covenants Agreement to said addition, the plat being recorded in *Plat Cabinet C-1, Sleeve 25*, and the Bill of Assurance and Covenants Agreement being dated October 11, 2005, and recorded on October 12, 2005, in Book 2005, Page 9270, in the records of White County, Arkansas and more particularly described on Exhibit A attached hereto.

WHEREAS, LTT, LLC, is the majority owner of the lots platted in Club West Estates (Phase X), and it desires to enter into this First Amendment for the sole purpose of correcting certain typographical errors contained therein which are *italicized* in this document. That this First Amendment does not change any covenants contained in the original Bill of Assurance and Covenants Agreement filed of record on October 12, 2005.

That all lots that have been sold as of the date of filing of this First Amendment are subject to the prior Restrictions and Covenants. Any lots sold subsequent to the filing of these Amendments are specifically included in this First Amendment and are bound by all changes in said Restrictions and Covenants including the Architectural Control Committee, dwelling size and other listed changes.

This filing constitutes notice to all prospective purchasers.

CERTIFICATE OF RECORD
State of ARKANSAS County of White
I hereby certify that this instrument was FILED FOR RECORD
and is RECORDED on the DATE and TIME and in the BOOK
and PAGE as stamped hereon.
DATE 10-25-05 TIME 4:00 pm
BOOK _____ PAGE _____
TAMI KING WHITE COUNTY CIRCUIT CLERK & RECORDER
[Signature]

The aforesaid tract is composed of lots as more particularly set forth in detail on a survey and plat which has been recorded in Plat Cabinet C-1, Sleeve 25, of the records of White County, Arkansas, and effectively incorporated herein as though set forth herein by reference thereto.

The tract shall be known, designated and hereafter referred to as Club West Estates (Phase X) of White County, Arkansas, and said Grantor hereby dedicates to the public forever all streets and rights of way, of the width, length and locations as set forth on said plat record herewith.

The above described tract constitutes Club West Estates (Phase X) addition and certain restrictions apply thereto in regard to residential use; dwelling cost, quality and size; building location; lot area and width; easements; electrical service and other conditions and restrictions as hereafter set forth.

Grantor, as sole owner of the above described tract, hereby makes the following declarations as to the limitations, restrictions and uses to which the lots may be used for and which shall constitute covenants to run with the land, as provided by law, and shall be binding on all parties and all persons claiming under them, and for the benefit of the limitations upon all future owners in said addition, this declaration of restrictions being designated for the purpose of keeping said real property desirable, uniform and suitable as residential property and the use thereof as herein specified. The declarations are as follows, to-wit:

AREA OF APPLICATION

1. **FULLY PROTECTED RESIDENTIAL AREA.** The residential area covenants hereinafter set forth in their entirety shall apply to all of the lots in Club West Estates (Phase X) addition.

RESTRICTIONS AND COVENANTS

1. **LAND USE AND BUILDING TYPE:** No lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any lot other than a single-family residence not to exceed two stories in height, a private garage, guest house, servant quarters and other outbuildings incidental and related to residential use of the premises; provided, however, nothing herein contained shall be construed to prevent or prohibit an owner of two or more contiguous lots or parts of lots from utilizing the same as a unit for a building site, and in any such instance, the lot lines referred to in the Building Location of the covenants and restrictions shall be exterior extremities of such unit, but in each instance, all minimum set back and area requirements hereinafter set out shall apply to such unit, and compliance therewith shall be required. After the sale of any lot, the owner must maintain the property in an acceptable appearance; as governed and controlled by the ACC until and after construction (Refer to Section 1, Maintenance).

2. **ARCHITECTURAL CONTROL:** No building shall be erected, placed, or altered on any lot until the construction plans and specification and a plan showing the location of the structure have been approved by the Architectural Control Committee (ACC) as to quality of workmanship, size of dwelling, materials, harmony of external design with existing structures, and as to location within respect to topography and finish grade elevation. No fence or wall shall be erected, placed, or altered on any lot nearer to any street than the minimum setback line unless similarly approved. Outbuildings must have the same quality of construction and same exterior building materials so they will correspond with the house construction. Approval shall be provided in Architectural Control hereof.

3. **DWELLING SIZE:** The ground floor area of the main structure, exclusive of one-story, open porches and garages shall not be less than 2000 square feet heated/cooled for a one-story dwelling, nor less than 1600 square feet heated/cooled for a dwelling of more than one-story,

provided however, that a dwelling of more than one-story shall contain the minimum aggregate of 2000 square feet heated/cooled as described above. Dwelling shall be at least 70 percent brick or be approved by the ACC. All dwellings must have a garage with a minimum footage to accommodate at least two (2) vehicles.

4. **DRIVEWAYS:** All driveways must be concrete or asphalt and a minimum of 10 feet wide.

5. **GARBAGE AND REFUSE DISPOSAL:** No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers. All equipment used for the storage or disposal of such material shall be kept in a clean and sanitary condition. The buyer is responsible for removing all stumps and debris brought about by clearing the building site.

6. **BUILDING LOCATION:** Any location of building shall meet the following requirements; from setback 60 feet center of any road; side setbacks 15 feet; rear setbacks 25 feet.

7. **EASEMENTS:** Easements for the installation and maintenance of utilities and drainage facilities and area fences are reserved as shown on recorded plat. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which would damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in said easements, or which may obstruct or retard the flow of water through drainage channels in the easements.

8. **LOT AREA:** As shown on plat, under no circumstances can any lot be subdivided.

9. **NUISANCES:** No noxious or offensive activity shall be carried upon any lot nor shall anything be done therein which may be or may become an annoyance or nuisance to the neighborhood.

10. **TEMPORARY STRUCTURES:** No structure of a temporary character, trailer, basement, tent, shack, garage, barn, fences, or other residence, either temporary or permanently, shall be permitted.

11. **SIGNS:** No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than five feet, advertising the property for sale or rent, or signs used by a builder to advertise the property during construction and sales period.

12. **OIL AND MINING OPERATIONS:** No oil drilling, oil development operations, oil refining, quarry, or mining operations of any kind shall be permitted on the property or in any lot, nor shall oil wells, tanks, tunnels, mineral excavation, or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any lot.

13. **LIVESTOCK AND POULTRY:** No animals, livestock, or poultry of any kind shall be raised, kept on any lot, except dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose.

14. **MAIL BOXES:** Mail box pedestals shall be built of brick or materials that match the exterior material of the house. Before any mailbox is erected, owner shall contact the local Post Office for its proper location.

15. **FENCES:** No chain link fences shall be erected on any lot unless hidden from view by a wooden fence. All fences must be approved by the ACC. No fences shall be closer than 15 feet to the front of dwelling.

16. **ARCHITECTURAL CONTROL COMMITTEE:** The Architectural Control Committee is composed of Terry Murphy and Norma Burgin, and any additional members that may be added. A majority of the committee may designate a representative to act for it. In the event of

death or resignation of any member of the committee, the remaining members shall have full authority to designate representatives, and they shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of the lots shall have the power, through a duly recorded written instrument, to change the membership of the committee or to withdraw from the committee's approval or disapproval, as required in these covenants. In the event the committee, or its designated representative fails to approve or disapprove within 30 days plans and specifications which have been submitted to it, or in any event if no suit to enjoin the constructions has been commenced prior to the completion thereof, approval will not be required, and the related covenants shall be deemed to have been fully complied. Plans must include a rough outline of landscaping.

17. FUNCTION OF THE ARCHITECTURAL CONTROL COMMITTEE: To govern and control the general appearance and maintenance of each dwelling. Functions detailed more specifically in Maintenance Section.

18. TERM: These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

19. SEVERABILITY: Invalidity of any of these covenants by judgements or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

20. ROOF SPECIFICATIONS: All roofs must have a minimum of 7-12 degree pitch. All roofs must also be constructed with a fiberglass architectural shingle or any variation must be approved by the ACC.

21. **YARDS:** All front and side yards must be seeded until complete covering is obtained, beginning at the completion of construction; and within six (6) months, required landscaping must be completed.

22. **CULVERTS:** All culverts must be a minimum of 15 inches by 20 feet with bulkheads on each end.

PROPERTY RIGHTS OF THE COMMON PROPERTIES

SECTION 1: Limitation of Liability: Neither the Declarant, the ACC, nor any of its members shall be liable, in damages or otherwise, to anyone submitting plans and specifications for approval or to any owner of land affected by this Declaration by reason of mistake of judgement, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications.

MAINTENANCE

SECTION 1: Duty of Maintenance: Owners and occupants (including lessees) of any part of the Property shall jointly and severally have the duty and responsibility, at their sole cost and expense, to keep that part of the Property so owned or occupied, including buildings, improvements and grounds in a well-maintained, safe, clean and attractive condition at all times. Maintenance includes, but is not limited to, the following:

- (a) Prompt removal of all litter, trash, refuse, and waste.
- (b) Lawn mowing.
- (c) Tree and shrub pruning.
- (d) Watering.
- (e) Keeping exterior lighting and mechanical facilities in working order.
- (f) Keeping lawn and garden areas live, free of weeds, and attractive.

- (g) Keeping parking areas, driveways, and roads in good repair.
- (h) Complying with all governmental health and police requirements.
- (i) Repainting of improvements.
- (j) Repair of exterior damages to improvements.

SECTION 2 : Enforcement : If, in the opinion of the ACC, any Owner or occupant has failed in any of the foregoing duties or responsibilities, then the ACC may provide written notice of that failure, giving the Owner or occupant ten (10) days from receipt to perform the care and maintenance required. Should any person fail to fulfill this duty and responsibility within the ten (10) day period, the then ACC through its authorization agent or agents shall have the right and power to enter onto the premises and perform needed care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person. The Owners and occupants (including lessees) of any part of the Property on which work is performed shall jointly and severally be liable for the cost of the work and shall promptly reimburse the ACC for all costs. If the ACC has not been reimbursed within 30 days after the invoicing, the indebtedness shall be a debt of all of the owners and occupants jointly and severally, and shall constitute a lien against that portion of the Property on which work was performed. The ACC shall have powers and rights in all respects, including but not limited to the right of foreclosure.

COMMON SCHEME RESTRICTIONS

The following restrictions are imposed as a common scheme upon all Sites and Common Areas for the Benefit of each other. Site and Common Areas may be enforced by any owner or the ACC through any remedy available at law or in equity.

1. No clothes lines, drying yards, service yards, woodpiles or storage areas shall be so located as to be visible from a street.

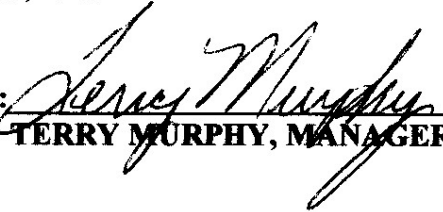
2. No junk vehicle, commercial vehicle, trailer, truck camper, camp truck, house trailer, boat or other machinery or equipment (except as may be reasonable and customary in connection with the use and maintenance if any improvements located upon the property and except for such equipment and/or machinery as the ACC may require in connection with the maintenance and operation of the Common Property) shall be kept upon the Property, nor (except for bona fide emergencies) shall the repair or extraordinary maintenance of automobiles or other vehicles be performed. This restriction shall not apply to vehicles, trailers, boats, machinery, equipment or the like stored and kept within an enclosed storage room or garage. The ACC may, in the discretion of its Board of Directors, provide and maintain a suitable area designated for the parking of such vehicles.

3. No gardens in side yards shall be permitted, unless screened by fences or shrubs.

IN TESTIMONY WHEREOF, the name of the **GRANTOR** is hereunto affixed by its Manager/Member on this 25th day of October, 2005.

LTT, LLC

By:


TERRY MURPHY, MANAGER/MEMBER

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF WHITE)

On this day appeared before me Terry Murphy, to me personally well known, who acknowledged that he is the Manager/Member of LTT, LLC, an Arkansas Limited Liability Company, and that he, as such Manager/Member, is authorized so to do, has executed the foregoing instrument for the purposes therein contained, by signing the name of the company by himself as such Manager/Member.

WITNESS my hand and official seal this 25th day of October, 2005.

Shula J. Petty
Notary Public

My Commission Expires:

1-10-10

THIS INSTRUMENT PREPARED BY:

Paul Petty
Atty at Law
411 W. Arch Avenue
Searcy, AR 72143

RET.

— Legal Description —

A tract of land situated in the Southeast Quarter of the Northwest Quarter and the South Half of Section Thirteen, Township Seven North, Range Eight West of the Fifth Principal Meridian, (A pt. of the SE 1/4 - NW 1/4 & S 1/2 Sec. 13, T.7 N., R.8 W., 5th P.M.), located in White County, Arkansas, being more particularly described as follows:

Commencing at an iron pin found at the West Quarter Corner of Section Thirteen, Township Seven North, Range Eight West of the Fifth Principal Meridian, (W 1/4 Cor. Sec. 13, T.7 N., R.8 W., 5th P.M.);

THENCE North 90 degrees 00 minutes 00 seconds East for a distance of 1749.16 feet to a point;

THENCE North 00 degrees 00 minutes 00 seconds West for a distance of 349.70 feet to a 5/8" rebar found at the Southwest Corner of Lot Three, Club West Estates, Phase I, said point being the POINT OF BEGINNING.

THENCE North 75 degrees 39 minutes 07 seconds East for a distance of 871.31 feet along the South line of Club West Estates, Phase I, to a 5/8" rebar found at the Southeast Corner of Lot Six, Club West Estates, Phase I;

THENCE South 09 degrees 40 minutes 26 seconds East for a distance of 506.36 feet along the West line of Club West Estates, Phase IV, to a 3/8" rebar found at the angle point on the West line of Lot Fifty Six, Club West Estates, Phase IV;

THENCE South 01 degrees 03 minutes 29 seconds West for a distance of 276.83 feet to a 3/8" rebar found at the Northwest Corner of Lot Fifty Nine, Club West Estates, Phase IV;

THENCE South 00 degrees 22 minutes 34 seconds East for a distance of 114.14 feet along the West line of Club West Estates, Phase IV, to a 3/8" rebar found at the Southwest Corner of Lot Fifty Nine;

THENCE South 53 degrees 27 minutes 30 seconds East for a distance of 264.90 feet along the South line of said Lot Fifty Nine, to a 3/8" rebar found at the Southeast Corner thereof;

THENCE South 44 degrees 39 minutes 55 seconds East for a distance of 60.00 feet to a 3/8" rebar found at the Southwest Corner of Lot Sixty, Club West Estates, Phase IV;

THENCE South 51 degrees 08 minutes 58 seconds East for a distance of 215.42 feet along the South line of said Lot Sixty, to a 3/8" rebar found at the Southeast Corner thereof;

THENCE South 29 degrees 08 minutes 00 seconds West for a distance of 370.13 feet to a point;

THENCE along a curve to the left having a radius of 812.51 feet and an arc length of 89.50 feet, being subtended by a chord of North 53 degrees 41 minutes 33 seconds West for a distance of 89.45 feet to a point;

THENCE North 56 degrees 50 minutes 53 seconds West for a distance of 58.37 feet to a point;

THENCE South 33 degrees 09 minutes 07 seconds West for a distance of 318.76 feet to a 3/8" rebar set on the East line of Lot Eight, Club West Estates, Phase IX;

THENCE North 50 degrees 25 minutes 36 seconds West for a distance of 406.54 feet along the Northeasterly line of Club West Estates, Phase IX, to a 3/8" rebar found at the Northeast Corner of Lot Eight A;

THENCE South 42 degrees 04 minutes 17 seconds West for a distance of 247.13 feet along the Northwesterly line of Lot Eight A, to a point in the centerline of the roadway;

THENCE North 47 degrees 55 minutes 41 seconds West for a distance of 60.92 feet along the centerline of the roadway, to a point;

THENCE South 42 degrees 04 minutes 17 seconds West for a distance of 245.88 feet along the Northwesterly line of Lot Seven B, Club West Estates, Phase IX, to a 3/8" rebar found at the Northwest Corner thereof;

THENCE North 47 degrees 52 minutes 26 seconds West for a distance of 62.89 feet to a point;

THENCE North 48 degrees 42 minutes 00 seconds West for a distance of 144.46 feet to a point;

THENCE North 48 degrees 10 minutes 03 seconds West for a distance of 115.78 feet to a 3/8" rebar on the South line of the Carr Property;

THENCE North 89 degrees 36 minutes 50 seconds East for a distance of 122.68 feet to a 1/2" rebar found at the Southeast Corner of said Carr Property;

THENCE North 02 degrees 42 minutes 11 seconds West for a distance of 1367.07 feet along the East line of the Carr Property to the POINT OF BEGINNING.

Together with and subject to covenants, easements, and restrictions of record.

Said property contains 35.42 acres more or less.

