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**BILL OF ASSURANCES AND
PROTECTIVE COVENANTS AND RESTRICTIONS
FOR STONE MOUNTAIN PHASE I, A SUBDIVISION OF THE CITY OF
FAYETTEVILLE, ARKANSAS**

KNOW ALL BY THESE PRESENTS Stone Mountain Development, Inc., hereinafter referred to as "Declarant", as owner and sub divider of all the lots in Stone Mountain Subdivision Phase I, a subdivision to the City of Fayetteville, Arkansas, hereinafter referred to as "Stone Mountain", by execution hereof, enters the following assurances, covenants, and restrictions with respect to the subdivision.

1. Ownership:

Declarant is the owner of the following described real property situated in Washington County, Arkansas, to wit: LEGAL DESCRIPTION

Part of the NW ¼ of the NW ¼, Part of the NE ¼ of the NW ¼, Part of the SE ¼ of the NW ¼, Part of the SW ¼ of the NW ¼ of Section 13, also part of the NE ¼ of the NE ¼ of Section 14, all in T16N, R30W in Washington County, Arkansas and being more particularly described as follows: Commencing at the NW Corner of said NW ¼, NW ¼ thence S00 degrees 53'20"E 428.19 feet, thence N77 degrees 58'36"E 235.82 feet, thence S03 degrees 01'54"E 300.49 feet, thence N87 degrees 16'47"W 243.09 feet, thence S00 degrees 53'00"E 367.50 feet, thence N82 degrees 38'00" 267.00 feet, thence S75 degrees 29'00"W 191.60 feet, thence S52 degrees 51'00" W 299.09 feet, thence S71 degrees 46'00"W 115.00 feet, thence N89 degrees 42'00"W 88.62 feet, thence N60 degrees 23'00"W 177.28 feet, thence N48 degrees 14'00"W 185.30 feet to the East Right of Way of Arkansas Highway 265, thence along said Right of Way S04 degrees 33'04"E 186.70 feet, thence S00 degrees 02'14"W 100.75 feet, thence leaving said Right of Way N89 degrees 16'30"E 1168.67 feet, thence S01 degrees 06'56"E 423.86 feet, thence S88 degrees 50'40"E 886.38 feet, thence N65 degrees 53'21"E 54.84 feet, thence N82 degrees 56'20"E 468.16 feet, thence N16 degrees 27'24"E 469.16 feet, thence along a curve to the right 432.98 feet, said curve having a radius of 250.00 feet and a chord bearing N16 degrees 17'51"E 380.86 feet, thence N21 degrees 40'08"E 246.16 feet, thence S68 degrees 19'52"E 183.75 feet, thence N52 degrees 00'00" E 354.35 feet, thence S83 degrees 00'00" E 140.00 feet, thence S38 degrees 00'00" E 270.00 feet, thence N55 degrees 00'00" E 165.00 feet, thence N01 degrees 35'29"W 675.00 feet, thence S88 degrees 48'33"W 1318.39 feet, thence S89 degrees 10'08"W 1313.94 feet to the P.O.B.; containing 82.74 acres more or less subject to easements and right of way record.



Doc ID: 008320870010 Type: REL
Recorded: 03/30/2005 at 03:29:49 PM
Fee Amt: \$35.00 Page 1 of 10
Washington County, AR
Bette Stamps Circuit Clerk

File **2005-00013294**

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The above described real property is being developed as Stone Mountain Subdivision Phase I, of the City of Fayetteville, County of Washington, State of Arkansas.

2. SINGLE-FAMILY RESIDENTIAL LAND USE:

All lots within Stone Mountain shall be developed as single family residential lots in compliance with the regulations for the R1 zoning as defined and interpreted by the City of Fayetteville, Arkansas, and Courts of competent jurisdiction and in compliance with the conditions, covenants, and restrictions contained herein, on the date these covenants and restrictions were executed.

3. BUILDING LIMITATIONS AND REQUIREMENTS:

The subdivision and building codes of the City of Fayetteville, Arkansas, as they presently exist or are hereinafter amended, shall be and are hereby made applicable to all lots in Stone Mountain. All dwellings, other structures and/or improvements shall comply with said ordinances as they exist on the date of such construction. Any conflicts between such ordinances and the provisions of the conditions, covenants, and restrictions shall be resolved in favor of the more restrictive provisions. Building, architectural, and design specification shall be in accordance with the codes and regulations of the City of Fayetteville, Arkansas, specifically those pertaining to development of land zoned R1 (Residential 1).

- a. All dwelling structures constructed upon any lot within Phase I of Stone Mountain shall contain a minimum of two thousand five hundred (2,500) square feet of heated living space.
- b. Each dwelling shall have a private garage for not less than two (2) cars. Minimum dimensions of any garage shall be twenty-two (22) feet by twenty two (22) feet. All garage interiors must be dry-walled and finished. All garage doors must be of section type, with automatic garage door openers.
- c. Each dwelling is required to have a concrete driveway.
- d. All homes and/or other structures constructed within Stone Mountain must have an architectural asphalt, tile, or wood shingle roof.
- e. No roof pitch on any structure shall be less than a 6/12 pitch.
- f. All homes must have at least eighty percent (80%) brick or stone on all exterior walls.
- g. Any lot owner may petition the Architectural Committee for a variance from these buildings limitations and requirements. Each application for a variance will be considered individually based on the overall design of the proposed house in relationship to its

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compatibility with other homes in Stone Mountain Subdivision. Any application for a variance will need to be accompanied with documentation proving that the quality of the proposed construction will be equal to or greater than the requirements set forth in the building limitations and requirements.

4. **BUILDING LOCATION AND YARD RESTRICTIONS:**

No building may be located within twenty five (25) feet of any lot line which is adjacent to a street, within ten (10) feet of the side lot lines, or within twenty (20) feet of the rear lot line. If two lots are purchased for purposes of constructing only one home, the interior side yard lot line limitations are removed. No lots within the subdivision may be subdivided, except as follows: if owners on both sides of a vacant lot elect to purchase said lot, they may subdivide the lot one time. This split of the joining lot would then increase the size of both adjacent lots and for building purposes the interior side lot line limitations would be associated with and measured from the new property line created by the division. If both portions of the split lot were ever recombined for purposes of serving as a building lot, then the original restriction as to set backs would apply.

The front yard and the side yards shall be fully landscaped and fully sodded within sixty (60) days and ninety (90) days, respectfully, following the date on which the dwelling is eligible for the issuance by the City of Fayetteville of the temporary certificate of occupancy. Any variance must be submitted and approved by the Grounds Committee. All front yards shall be maintained and groomed as required to be consistent with the other homes within the subdivision and to comply with the overall architectural objectives of Stone Mountain.

5. **BUILDERS AND CONTRACTORS:**

Prior to commencement of any site work or construction, a lot owner shall submit the name, address, and telephone number of the owner, the name, address, and telephone number of the building contractor, a complete set of construction plans and specifications; and a plot plan reflecting the location of all improvements, and set back lines, collectively referred to as a "Building Packet" to the Architectural Committee for review and approval. Within thirty (30) days after receipt of the Building Packet the Architectural Committee shall act upon the request and provide the lot owner approval or disapproval in writing. A building contractor is defined as a general contractor, building contractor, construction contractor or consultant, architect, design builder or the owner, if he/she acts as their own contractor.

If the Building Packet is complete and the Architectural Committee fails to respond to a lot owner within the specified time period, said member may approach the Board of Directors of Stone Mountain Property Owners Association and request immediate action be taken to approve or disapprove the owner's submission. The Board of Directors shall have the authority to approve or disapprove the submission; however, they must act within fifteen (15) working days of receipt of the owner's written request.

If both the Architectural Committee and the Board of Directors fail to act, if no suit to halt the proposed construction is commenced prior to the completion of said construction, and if said construction is in compliance with the ordinances of the City of Fayetteville, Arkansas, written approval from the Architectural Committee shall no longer be required and the completed construction shall be deemed in compliance with the Stone Mountain conditions, covenants, and restrictions.

No building materials shall be placed or stored on a lot prior to approval of the Building Packet and the scheduled date on which construction is to commence. Construction sites shall be kept neat and orderly. Construction sites are to be cleaned daily of trash and scrap material. If said requirements are not adhered to Stone Mountain Property Owners Association may hire a cleanup crew to perform the task. Should Stone Mountain Property Owners Association incur expense associated with the cleanup of a construction site, said expense shall be deemed a lien upon the lot until paid. Portable toilets must be on all job sites during construction. Upon completion of the building project all remaining materials, trash, dumpsters, toilets, etc. shall be removed from the lot and subdivision within ten (10) days.

6. HOME OCCUPATIONS:

Home occupations, as defined by the codes of the City of Fayetteville, Arkansas, are prohibited.

7. FENCES:

Fencing of the front yard is prohibited. Fencing of rear and side yards must be of brick, decorative iron, or wood construction. Except for fencing constructed for the purpose of screening by Declarant, no fencing may exceed six (6) feet in height. All fences shall be recessed at least ten (10) feet from the front of the dwelling. No wire or chain link fencing is allowed. Fencing shall not infringe on neighboring lots or the common grounds of Stone Mountain. All fencing plans and materials must be submitted to and approved by the Architectural Committee. Unless a dwelling structure is built on a lot, fencing of the lot is prohibited.

8. UTILITIES:

All utilities in Stone Mountain subdivision shall be underground.

9. SATELLITE DISHES:

Satellite dishes shall be twenty-four (24) inches or less in diameter and shall not be visible from the street.

10. CABLE TV:

Cable television access shall be supplied to each lot within the development.

11. OUTBUILDINGS AND PORTABLE BUILDINGS:

No outbuildings are allowed. A gazebo or similar structure may be built and maintained in the back or side yard. All plans for such structures must be presented to and approved by the Architectural Committee.

12. EASEMENTS:

Easements for installation and maintenance of utilities, drainage facilities and any other such easements are reserved as shown on the recorded plat. Lot owners are discouraged from constructing structures or improvements or landscaping within the easement. Lot owners are advised that any structures, improvements, or landscaping located within an easement is subject to being damaged, destroyed, or removed by the easement owner without compensation or replacement being provided the lot owner.

13. OIL AND MINING OPERATIONS:

No operations associated with the testing for, locating, or recovery of, and refining or processing of oil, gas, or minerals found upon or underneath Stone Mountain shall be permitted or located within Stone Mountain.

14. LIVESTOCK, POULTRY AND PETS:

No livestock, poultry, exotic, wild, non-domesticated, or other such animals (except as noted within) shall be kept, raised or sheltered on any residential building site within Stone Mountain. Dogs, cats and other household pets may be kept, provided they are not raised for commercial purposes. The outside living area for approved pets must be maintained and kept clean at all times. All living areas for such pets must be in the rear or side yard. The walking of permitted animals on a leash is allowed, provided an owner/walker picks up dropping from said animals.

15. PARKING OF VEHICLES:

All vehicles, except recreational vehicles, shall be parked in the garage or driveway of the owner's respective lot. The Subdivision's streets shall not be used as a place to park or store vehicles. Any and all recreational vehicles routinely parked overnight or routinely parked for more than six (6) hours a day between the hours of 6:00 a.m. and 11:00 p.m. on subdivision streets, shall be deemed to be parked in violation of this covenant and shall be subject to removal at the expense of the lot owner or vehicle owner.

The parking or storage of a vehicle on a subdivision street for three (3) consecutive days of any given week, shall be deemed a "routinely parked" vehicle. Licensed and non-licensed recreational vehicles, of any type, shall not be routinely parked on the streets of the subdivision or on any lot with the subdivision.

The above restrictions apply to, but shall not be limited to recreational equipment, motor homes, boats, travel trailers, campers, transport trailers and the like. Any large trucks, tandem wheel tractors or large commercial vehicles are strictly prohibited within the subdivision, except for moving, and delivery purposes and development of a lot and new home construction.

16. INOPERATIVE VEHICLES:

No inoperative or non-licensed vehicle shall be left on any subdivision street or owner's driveway in excess of three (3) days.

17. TEMPORARY STRUCTURES:

No temporary structure shall be used for human habitation. The builders and contractors are allowed such structures during the construction phase for

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storage and construction use only. All such structures must be removed prior to or at completion of the building project.

18. **SIGNS AND POSTERS:**

No signs or posters are allowed except as noted below:

- a. A professionally made sign noting the property is for sale.
- b. A professionally made construction sign noting the builder of the improvements, which sign shall be removed once the improvements are completed or occupied.

Political, garage sale, and commercial signs or posters are prohibited. Any lot owner may apply for a waiver of a sign or for permission to place a sign on a lot by submission of the sign design, intended duration, and purpose to Stone Mountain. Applications for a waiver shall be submitted prior to placement of a non-permitted sign.

19. **SIGHT DISTANCE AT INTERSECTIONS:**

Walls, fencing, shrubs, hedges, trees or other improvements constructed or made near or at the intersections of streets within the Stone Mountain subdivision shall be located and constructed in compliance with the codes, regulations, and ordinances of the City of Fayetteville.

20. **MAILBOXES:**

Prior to occupancy of any dwelling structure located on a lot, the lot owner shall construct a mailbox, that has been approved as to design and site location by the Architectural Committee.

21. **STREETLIGHTS:**

All streetlights shall be installed by Stone Mountain Development, Inc. and dedicated to the City of Fayetteville, Arkansas for public use and maintenance by the City.

22. **CLOTHESLINES:**

Outdoor clotheslines or poles are prohibited.

23. **BASKETBALL GOALS:**

The placement of all basketball goals must be approved by the Grounds Committee.

24. **NUISANCES:**

No noxious, destructive or offensive activity as defined by City Ordinance and State or Federal laws or regulations shall be carried on or upon any lot or street, nor shall anything be done thereupon which may be or may become an annoyance or nuisance to the Stone Mountain community and its homeowners.

25. **ENTRYWAY AND MEDIAN MAINTENANCE AND UPKEEP:**

Entryways, medians, retention ponds and surrounding areas, public areas and parks, and common areas and improvements are an integral part of Stone Mountain and it is in the best interest of Stone Mountain that said such entryways, medians, retention ponds and surrounding areas, and common areas and improvements shall be shared by each lot owner through annual or special assessments. Any upkeep, maintenance and repair of public areas and

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parks shall be at the discretion of the Board of Directors of Stone Mountain Property Owners Association.

26. **SWIMMING POOLS:**

Swimming pools must be placed in the back yard and properly fenced.

Above ground pools and temporary pools are prohibited.

27. **STREETS:**

All streets within the Stone Mountain Subdivision Phase I shall be dedicated to the City of Fayetteville, Arkansas for public use and maintenance by the City.

28. **GOVERNING STRUCTURE**

By accepting ownership of property within Stone Mountain, each owner accepts membership within the Stone Mountain Property Owners Association, an Arkansas non-profit corporation formed to promote the collective and individual property and civic interests of all owners of Stone Mountain property and to own, operate, and maintain any area which is now or which in the future may be designated common property and at its discretion publicly owned property such as the park area and medians so long as the development and maintenance of park and publicly owned areas are in compliance with City codes and regulations.

By accepting ownership of property within Stone Mountain, each owner acknowledges, said property is now or will be subject to periodic assessments to be established and used for the construction, development, improvement, repair and replacement of the entryways, medians, retention ponds and surrounding areas, and common areas and improvements by the Board of Directors of the Stone Mountain Property Owners Association and agree if said assessments are not timely and fully paid said assessment and all costs, including legal fees, associated with the cost of collection of same shall be deemed a lien on the property so assessed.

The owner(s) of each lot in Stone Mountain shall be entitled to one (1) vote on any proposition or action placed before the membership of the Stone Mountain Property Owners Association for a vote. If more than one person or entity owns a single lot, the owners must collectively agree upon their single vote before casting same. If one or more entities own more than one lot, the owner(s) are entitled to one (1) vote per lot owned.

28. **ARCHITECTURAL COMMITTEE:**

The Architectural Committee is established to insure, within its limited ability, that all dwellings and/or other exterior structures within Stone Mountain are compatible with the other dwelling and structures constructed or to be constructed within Stone Mountain.

The Architectural Committee shall be appointed and shall serve at the discretion of the Board of Directors of the Stone Mountain Property Owners Association. The Architectural Committee shall have no less than one (1) member and shall have no more than three (3) members who shall own or be representative of the owners of property within the Stone Mountain Subdivision.

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29. **GROUNDS COMMITTEE:**

The Grounds Committee is established to insure the streets, sidewalks, common areas and improvements located thereupon, unimproved lots and the front and side yards of improved lots, are maintained, groomed and kept in good order. The Grounds Committee shall note any problems with mailboxes, entryways, retention ponds and areas surrounding same, public areas and parks, common areas and improvements within the Stone Mountain development. Any problems or violations noted by the committee shall be written up and reported for repair or correction to the proper parties. If the needed repair or violations is directed to a lot/home owner, said owner has fifteen (15) days in which to correct the problem. If the owner fails to take measures to correct the problem, the Grounds Committee may report the violation or problem to the Board of Directors of Stone Mountain Property Owners Association for further action and follow-up.

The Grounds Committee shall be appointed and serve at the discretion of the Board of Directors of the Stone Mountain Property Owners Association. The Grounds Committee shall consist of no less than one (1) member and shall have no more than three (3) members, who will be owners or representatives of owners of property within Stone Mountain.

30. **VIOLATIONS:**

Any and all violations against a lot/homeowner(s) may be result in a levy against the owner and the property by the Board of Directors of Stone Mountain Property Owners Association. All violations should be considered of the utmost importance and be addressed and responded to in a timely manner.

Correction of the item in violation should begin as soon as possible. If you believe the violation is wrong or incorrect, please contact the issuing party of the violation as soon as possible.

32. **ASSESSMENTS:**

Lots owned by Stone Mountain Development, Inc. shall not be assessed an annual assessment fee so long as the lot remains a undeveloped lot. Once title of a lot is transferred from Stone Mountain Development, Inc. there will be due an annual assessment of one hundred and twenty dollars (\$120.00), which assessment shall be for a full calendar year. Assessments will be due January 1st of each year. For any lot purchased in mid-year, the lot owner at closing shall be assessed and pay the annual assessment prorated for the remainder of that year. Assessments shall be collected by and paid to the Stone Mountain Property Owners Association. Assessments shall be used for the repair, maintenance, upkeep, and replacement of the entryways, medians, retention ponds and surrounding areas, common areas and improvements, public areas and parks, and to pay the costs associated with the operations of the Stone Mountain Property Owners Association, including costs and fees paid to lawyers and accountants. By a two thirds (2/3) vote of the Board of Directors of Stone Mountain Property Owners Association or a majority vote

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of the owners of lots in Stone Mountain Property Owners Association the assessment may be periodically increased or decreased. By acceptance of ownership of a lot within Stone Mountain, a lot owner is agreeing to pay current and future assessments and is agreeing assessments shall be deemed a lien against the lot. The lot owner agrees a lien which results from a failure to pay an assessment may be foreclosed in the same manner provided by Arkansas Law for the foreclosure of a real estate mortgage. Each lot owner agrees to pay Stone Mountain Property Owners Association costs and legal fees associated with the collection of delinquent assessments or foreclosure of liens.

33. **DURATION OF COVENANTS AND RESTRICTIONS:**

These covenants and restrictions shall remain in effect for thirty (30) years. Said covenants and restrictions may be extended for successive five (5) year terms if approved by a majority of the lot owners.

34. **BINDING EFFECTS AND AMENDMENTS OF COVENANTS:**

All persons or corporations who shall acquire any lot within the Stone Mountain subdivision shall be deemed to agree, accept, conform to and observe the restrictions, covenants and stipulations contained herein, and the By-Laws of Stone Mountain Property Owners Association and accepts membership in the Stone Mountain Property Owners Association.

Any amendment of these covenants and restrictions requires a majority vote by the lot/home owners of Stone Mountain.

No changes in the covenants and restrictions shall be valid unless the amended covenants and restrictions are properly recorded in the recorder's office of Washington County, Arkansas. No amendment shall be allowed which would be in violation of (R1) zoning in affect at the time of the amendment.

35. **SEVERABILITY:**

Invalidation of any restriction or portion of a restriction set forth herein, or any part thereof, by an order, judgment, or decree of any court, or otherwise, shall not invalidate or affect any of the restrictions, or any part thereof, as set forth herein, but they shall remain if full force and effect.

Executed this 29 day of March, 2005
STONE MOUNTAIN DEVELOPMENT, INC.

By: Ron Quisenberry, President
Ron Quisenberry, President

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ACKNOWLEDGMENT

STATE OF ARKANSAS

COUNTY OF WASHINGTON

On this the 29th day of March, 2005, before me, a Notary Public personally appeared, Ron Quisenberry, known to me (or satisfactorily proven) to be the President of Stone Mountain Development, Inc. and acknowledged he executed the foregoing instrument under the authority and in the capacity therein stated and for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Susan Pierce
Notary Public

My Commission Expires

11-11-2006

