

BILL OF ASSURANCE

LOTS 764 THROUGH 803,

TRACT 8 B 1 AND TRACT 8 B 2 OF

FIANNA HILLS 8 B ADDITION TO THE CITY OF FORT SMITH,

ARKANSAS

*726 - 2nd tract
P28 - 2nd tract
P29 - 2nd tract*

KNOW ALL MEN BY THESE PRESENTS:

That the following declarations as to limitations, restrictions, and uses to which property known as Fianna Hills 8 B, Lots 764 through 803, Tract 8 B 1 and Tract 8 B 2, an Addition to the City of Fort Smith, Arkansas are to apply only to those lots numbered 764 through 803 and to those tracts numbered 8 B 1 and Tract 8 B 2, as set forth on the plat of the property to be filed contemporaneously with this Bill of Assurance.

That the undersigned, FIANNA HILLS DEVELOPMENT CORPORATION, an Arkansas corporation is the developer of the property situated in the Fort Smith District of Sebastian County, Arkansas, and described above, said property being known as Fianna Hills 8 B, Lots 764 through 803, and Tracts 8 B 1 and 8 B 2, an Addition to the City of Fort Smith, Arkansas, and the said FIANNA HILLS DEVELOPMENT CORPORATION, as developer, does hereby make the following declarations as to limitations, restrictions and uses to which said property may be put, hereby specifying that said declarations shall constitute a covenant running with the land for the period of time hereinafter set out, as provided by law, and shall be binding upon all purchasers of Lots 764 through 803, Tract 8 B 1 and Tract 8 B 2 in Fianna Hills 8 B Addition to the City of Fort Smith, Arkansas, and upon such purchasers' heirs, personal representatives, successors and assigns, and all persons claiming under them; and that said declarations are for the benefit of and are limitations on all future owners of said lots and tracts in said addition; that this Bill of Assurance has been designated as such in order to provide for an orderly development of said addition and for the purpose of keeping said addition desirable, uniform and suitable for architectural design and uses herein specified.

This Bill of Assurance shall be binding upon all parties and all persons claiming under them until May 1, 1998, at which time said covenant shall be automatically extended for an additional ten (10) years, unless by a vote of the majority of the then owners of Lots 764 through 803, Tracts 8 B 1 and 8 B 2 of Fianna Hills

8 B (the owners of lots having one vote per lot and the owners of Tract 8 B 1 and 8 B 2 having one vote per tract), it is agreed to change said covenants in whole or in part.

If the parties hereto or their assigns, shall violate or attempt to violate any of the covenants herein contained, it shall be lawful for any other person or persons owning real property situated in said addition or for the Architectural Coordination Committee referred to herein to prosecute any proceedings at law or in equity against the parties or person or persons violating or attempting to violate any such covenant and to prevent him or them from so doing or to recover damages or other dues for such violations. Any right reserved hereunder to the owner may also be exercised by any other owner of the aforementioned lots or tracts situated in said addition or by the Architectural Coordination Committee, either singularly or collectively. Invalidation of any one of these covenants by court order shall in no way affect any of the other provisions which shall remain in full force and effect.

1. The term "building" as used herein shall mean one connected structure which may be a duplex, triplex, quadruplex, apartment complex, or other multi-family type dwelling. The term "unit" or "living unit" shall mean an individual or family dwelling unit. Except as provided for in paragraph five hereof, there shall be only one "building" per lot or tract, though ^{see} there may be more than one "unit" or "living unit" per lot ^{paragraph} or tract. ^{5 deleting} ^{this.}

2. The undersigned does hereby dedicate for public use all of the streets as shown on the plat filed concurrently herewith as part of Fianna Hills 8 B Addition, and does hereby guarantee the title to all of the land covered by said streets. The owner further dedicates to the public, for public use forever, the easements and rights of way as shown and designated on plats of Fianna Hills 8 B Addition for the several purposes of constructing, maintaining, operating, repairing, and replacing any and all public utilities including the storm and sanitary sewer, telephone lines, electric power lines, transformers, gas lines, water lines and television cable lines, together with all fittings and equipment for each of such facilities and any other appurtenances thereto, with the right of ingress and egress upon said easements and rights of way for the use and purposes aforesaid, together with similar rights on each and all of the streets shown on any such plat; provided, however, that the undersigned owner hereby reserves the right to construct, maintain, operate, lay and re-lay water lines and sewer lines together with the rights of ingress and egress for such construction, maintenance, operation, laying and re-laying over, across and along all of the public streets, alleys and easements shown on said plat, and/or sewer services to the area included in said plat and to any other areas. Said utility easements are for the use and benefit of the undersigned as well as the public utilities, their agents and employees. The rights and privilege and authority herein reserved includes the right to cut down and keep trimmed all trees, hedges and shrubs that may, in the judgment of the undersigned, or of said public utilities, interfere with or endanger such

3. All supply of electric service shall be located underground and the easement ways reserved for general utility services as shown on the plat. Service pedestals and transformers, as sources of supply at secondary voltages, may also be located in said easement ways. Underground service cables to all buildings which may be located on all those lots or tracts covered by these restrictions may run from the nearest service pedestal or transformer to the point of use as determined by the location and construction of such building as may be located upon said lot or tract provided, that upon the installation of such a service cable or cables to a particular building, the supplier of electric service shall thereafter be deemed to have a definite, permanent, effective, and exclusive right of way easement on said lot or tract covering a five foot strip extending 2.5 feet on each side of such service cable or cables extending from the service pedestal or transformer to the service entrance of said building. The supplier of electric service, through its proper agents and employees, shall at all times, have right of access to all such easement ways shown on said plat, or provided for in this deed of declaration for the purpose of installing, maintaining, removing or replacing any portion of said underground electric facilities so installed by it. This right shall apply to all suppliers of public utilities and quasi-public utilities, as for example, television cables. The owner of each lot or tract shall be responsible for the protection of the underground facilities located on his property and shall prevent the alteration of grade or any construction activity which may interfere with said electric facilities. Repairs or costs of relocation required by the violation of this covenant shall be paid for by the owner of the lot or tract. In connection with gas meters and gas lines to the structures to be built upon the lots and tracts covered by these restrictions, all yard lines will be plastic pipe of size and material provided by the gas company. An approved tracer wire will be installed in the trench with the plastic pipe and attached to the meter rise per the gas company's specifications. Meter set assemblies will be furnished the plumber to be installed within five feet of the front corner of the structure. No yard line will be installed under concrete or asphalt unless installed in a casing approved by the gas company. The casing will have to be sealed with jute or similar material and properly vented at one end, at least six inches above the ground. The yard line and inlet meter riser will be tested at not less than 90 P.S.I.G. air or nitrogen for 24 hours, approval and acceptance of same to be by a gas company personnel. Further, in connection with the gas line, the meter settings shall not be isolated from the front property line by a fence requiring entrance by a gate. Shrubbery will be limited so as not to interfere with the meter reading and normal maintenance of said meter.

4. In order to keep beautiful and pleasing the overall visual effect of the development, all plans and specifications must be submitted to an Architectural Coordination Committee for its approval prior to the start of construction. Said committee will consist of a representative of Fianna Hills Development

Corporation and representatives of the individual lot owners in Fianna Hills Addition. The Architectural Coordination Committee overseeing the development of Fianna Hills 8 B, Lots 764 through 803, Tracts 8 B 1 and 8 B 2 shall be the same Architectural Coordination Committee which oversees the development of Fianna Hills Addition. Said committee will not have such wide discretion as to act arbitrarily or capriciously or unreasonably. The Architectural Coordination Committee shall have the authority to approve or disapprove of plans, and its authority shall be expanded in connection with Fianna Hills 8 B, Lots 764 through 803, Tracts 8 B 1 and 8 B 2 so that it shall have authority to oversee the construction of all buildings being built on lots or tracts in Fianna Hills 8 B, so as to assure that said buildings are being constructed in accordance with the plans and specifications approved by said committee. All plans and specifications must be in architectural conformity with the existing construction. Said conformity shall include landscaping and other external appearances. The committee has adopted by-laws, explaining the mechanics of its operation and providing for a maximum time within which plans must be acted on. In order to preserve the natural beauty of the land, approval must be given by the committee before trees, five inches or more in diameter, and located outside the building line, are removed.

5. Lots subject to these restrictions shall be used for single family residences or duplexes and for no other purposes, except that triplexes and quadruplexes may be permitted on Lots 764 through 803 with the consent of the Architectural Coordination Committee. An apartment building or other multi-family type building may be constructed on Tract 8 B 1 or Tract 8 B 2 so long as the plans and specifications are submitted to and approved by the Architectural Coordination Committee. Further, the construction of said apartment building or multi-family type building shall be overseen by the Architectural Coordination Committee and it shall be the responsibility of the Architectural Coordination Committee to assure that said apartment type building or multi-family type building is being constructed in accordance with the approved plans and specifications. The Architectural Coordination Committee may, in its discretion, waive the requirement of "one building per lot or tract" as set forth in paragraph one hereof. In making decisions regarding the location of duplexes, triplexes, or quadruplexes, or in making the decision regarding the waiver of the "one building per lot or tract" requirement, the Architectural Coordination Committee will give due consideration for the surrounding area and will give notice to adjacent property owners.

6. All single family residences must have either a private garage or a carport for not less than two cars. All other living units must have either a private garage or a covered carport, which garage or covered carport may be for a single automobile. Construction of all carports must be in keeping with the design of the remainder of the dwelling. Any detached structure to be built on a lot or tract such as a covered

entertainment area, shall conform to the basic styling of the dwelling thereon and the plans for such structures must be submitted to the Architectural Coordination Committee for approval. Carports will not be permitted unless they are placed where they will not be between the building and any street adjoining the property or unless they are in keeping with the architectural design of the residence and are approved by the Architectural Coordination Committee.

7. No outbuilding or tent or shack or garage or barn or any vehicle capable of use as living quarters, either permanently or temporarily may be erected on or moved onto any lot or tract in the addition by the owner, except construction trailers during the period of construction. No structure of any temporary character shall be permitted on any lot or tract. No residence previously used shall be moved onto any lot or tract in this addition.

8. All buildings constructed on the lots or tracts within this addition shall be in conformity with the zoning laws and regulations of the City of Fort Smith, Arkansas.

9. All exposed foundations shall be of brick or stone. No concrete block foundation will be exposed unless approved by the Architectural Coordination Committee. All fences must be approved by the Architectural Coordination Committee. All fences must be of ornamental design. No fences consisting of wire or metal posts will be allowed. All swimming pools must be constructed in accordance with the design of existing construction and the plans and construction of same must be approved by the Architectural Coordination Committee.

10. No obnoxious or offensive trade or activity shall be carried on or upon any lot or tract subject to these restrictions, nor shall anything be done thereon that may be or may become any annoyance or a nuisance to the neighborhood. No future mineral development of any kind shall be permitted affecting the service of the lots or tracts covered by these restrictions. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot or tract except that dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose.

11. No sign of any kind shall be displayed to the public view on any lot or tract except one professional sign, advertising the property for sale or rent, or signs used by a builder or agent to advertise the property during the construction and sale.

12. No lot or tract will be used for the storage of materials for a period greater than thirty days prior to the start of construction and thereupon construction for single family dwellings shall be completed within twelve months. Construction for duplexes shall be completed within fourteen months. Construction of quadruplexes shall be completed within fourteen months. Construction of apartment or

multi-family type dwellings shall be completed within sixteen months. No lot or tract shall be used or maintained as a dumping ground, and no trash, garbage or other waste shall be kept except in sanitary containers. All lots and tracts shall be maintained in a neat and orderly condition at all times.

13. Any assent, expressed or implied, by any party hereto to any breach of any covenant herein contained, shall operate as such only in the specific instance and cannot be construed as an assent or waiver of any such covenant or agreement generally or any subsequent breach thereof.

14. Notwithstanding anything contained herein to the contrary, this Bill of Assurance shall be applicable and pertain to and be a part of and for the benefit of the owners of the land described herein, which consists of a description of forty lots and two tracts located within Fianna Hills 8 B Addition to the City of Fort Smith, Arkansas, and to no other land, except that additional land may become part of said addition, and these Restrictive Covenants may become applicable thereto, if the owners of said lands so elect and so adopt these restrictions in whole or in part, as a matter of record; except that it is not intended for this provision to any way limit the authority of the Architectural Coordination Committee (which shall be the Architectural Coordination Committee for Fianna Hills Addition as well) to exercise its powers and duties herein.

15. There shall be no automobile repairs or parking of dead or junk automobiles, trucks or motorcycles as same are customarily defined on either the front, side or rear of any residential site, nor shall there be any repair work permitted on said vehicles on any of the residential sites so that said vehicles under repair may be readily seen by occupants and owners of neighboring residences, except for those emergency repairs which would be only occasionally required as the result of unexpected malfunctions. It is the specific intention of this covenant to prohibit the practice of keeping and maintaining automobiles, trucks or motorcycles or any other vehicle which is constantly or periodically being repaired or modified and which is kept in plain view of other neighboring residences.

16. After construction of a building on a lot or tract the owner may divide said lot or tract into more than one lot or tract by way of separate conveyance of the appropriate portion of the lot or tract, provided the owner has obtained, if required by the city, all necessary approval from the Fort Smith Planning Commission and has complied with all other zoning regulations, Planning Commission regulations and rules and laws and ordinances of the City of Fort Smith, Arkansas.

EXECUTED in Fort Smith, Arkansas this 30th day
of August, 1978.

FIANNA HILLS DEVELOPMENT CORPORATION

By *Donald W. Lida*
Vice President

ATTEST:

Al Totts
Secretary