

2003 9246  
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Deed Book & Page  
04-09-2003 04:27:55 PM  
Brenda DeShields-Circuit Clerk  
Benton County, AR

**PLAT AND BILL OF ASSURANCE  
SOUTHERN HILLS BUSINESS PARK**

This Plat and Bill of Assurance made this 4th day of March, 2003, by  
Arkansas National Bank, hereinafter referred to as "Developer".

**Article I**

**Recitals**

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

Book/Pg: 2003/9246  
Term/Cashier: CIRCLK04 / SWhite  
Tran: 628.22792.55859  
Recorded: 04-09-2003 16:28:06  
DFE Deed  
REF Recording Fee  
Total Fees: \$ 41.00

41.00  
0.00

Part of the SE ¼ of the SW ¼ of Section 27, and part of the North ½ of the SW ¼ of the  
SE ¼ of Section 27, all in Township 19 North, Range 30 West of the Fifth Principal  
Meridian, Benton County, Arkansas, described as follows: Commencing at the Southeast  
corner of said SE ¼ of the SW ¼ of Section 27, being a found iron pin in Pleasant Grove  
Road, as shown on Plat s-51, and Plat 2-74, also being the true Point of Beginning,  
thence along the South line of said SE ¼ of the SW ¼ of Section 27, also being the  
South line of said Plat s-51, and Plat 2-74, and Deed 671-832, N87 degrees 02'11"W  
1039.50 feet to an iron pin at the Southwest corner of Deed 671-832, also being the  
Southwest corner of said Plat S-51, and Plat 2-74, thence along the West line of said Plat  
2-74, N2degrees 22'27"E 1310.47 feet to an iron pin at the Northwest corner of said Plat  
2-74, also being the Northwest corner of Deed 671-832, thence along the North line of  
said Plat 2-74, also being the North line of Deed 671-832, S87 degrees 04'58"E 1044.42  
feet to an iron pin at the Northeast corner of said Plat 2-74, also being the Northwest  
corner of the SW ¼ of the SE ¼, as shown on Plats S-51, 2-74,1-53,U-17,V-130, and S-  
24, thence along the North line of said SW ¼ of the SE ¼, S87 degrees 00'28"E 805.25  
feet to a point on the West right-of-way of Interstate 540, thence along said right-of-way,  
S23 degrees 25'53"E 390.56 feet to a found right-of-way monument, thence along said  
right-of-way, S10 degrees 59'39"E 184.90 feet to a found right-of-way monument, thence  
along said right-of-way, S0 degrees 26'17"W 128.98 feet to an iron pin on the South line  
of the North ½ of the SW ¼ of the SE ¼ of Section 27, thence along the South line of  
said North ½ of the SW ¼ of the SE 1/4 , N86 degrees 52'22"W 1024.88 feet, to an iron

pin at the Southwest corner of said North ½ of the SW ¼ of the SE ¼, thence along the West line of said SW ¼ of the SE ¼ of Section 27, S2 degrees35'23"W 655.64 feet to the Point of Beginning, containing 45.62 acres, more or less and subject to the right-of-way of Pleasant Grove Road on the South side and to all easements of record or of fact.

LESS AND EXCEPT:

1.38 FEET SQUARELY OFF THE WEST SIDE OF THE ABOVE DESCRIBED LANDS IN PART OF THE SE ¼ OF THE SW ¼ OF SECTION 27, TOWNSHIP 19 NORTH, RANGE 30 WEST, BENTON COUNTY, ARKANSAS, AS SET OUT IN WARRANTY DEED 587-665.

1.2 The Developer intends to plat the Property from time to time into Lots but all the Property shall forever be known as Southern Hills Business Park, Benton County, Arkansas.

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

## **Article II**

### **Definitions**

#### **2.1 Definition of Terms:**

a) "Developer" shall mean Arkansas National Bank, its successors and assigns.

b) "Owner" shall mean and refer to the record owner, whether one or more persons or entities of the fee simple title to any Lot in Southern Hills Business Park, Benton County, Arkansas, but excluding those having any interest merely as security for the performance or payment of an obligation.

c) "Property" shall mean and refer to the real property hereinbefore described as Southern Hills Business Park, Benton County, Arkansas.

d) "Improvements" shall mean and include but not be limited to buildings, parking areas, loading areas, fences, walls, hedges, landscaping, mass plantings, poles, signs and any structures of any type or kind.

e) "Lot" shall mean and refer to the fee simple absolute estate of any numbered plot of land shown upon the Plat of Southern Hills Business Park as heretofore and hereafter platted.

f) "Plat" shall mean and refer to that certain drawing attached to and made a part of this instrument.

### **Article III**

#### **Purpose**

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

a) protect the Owner against such improper development and uses of surrounding Lots as will depreciate the value and use of their Lots;

b) prevent the erection on the Property of structures constructed of improper or unsuitable materials or with improper quality and methods of construction;

c) insure adequate and reasonably consistent development of the Property;

d) encourage and assure the erection of attractively designed permanent improvements appropriately located within the Property in order to achieve harmonious appearance and function;

e) to provide adequate off street parking and loading facilities; and

f) generally promote the welfare and safety of the Owner.

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

**Article IV**

**Easements and Roadways**

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

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

**Article V**

**Permitted Uses**

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

5.2 Owner shall not permit any commercial uses on said Property except (1) those permitted as Accessory Uses and Conditional Uses in the C-2 Zoning Classifications of the Zoning Ordinances of the City of Rogers, for Lots 1-11, 13-25 and R-0 zoning on Lot 12.

**Article VI**

**Regulation of Improvements**

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

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

6.3 Submission Requirements.

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

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

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

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

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

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

6.4 Setbacks. No building shall be located on any building site nearer to the front, side or rear lot lines than the minimum building setback lines shown on any recorded Plat affecting the Property. Provided, however, in the event any Owner or Owners of contiguous Lots desire to develop their Lots as one project, the Developer shall have the right to waive the common side setback lines to promote the development of the contiguous Lots as one in a manner which is aesthetically compatible with the development of the Property, if approved by the City of Rogers.

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

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

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

a) Exterior wall elevations of buildings must include at least 90% masonry material unless otherwise approved by the Developer.

b) Roofs shall be of a flat or sloping design and in a material approved by the Developer.

c) Roof-mounted mechanical equipment, which is visible from the ground, is to be screened and painted to match the exterior material of the building.

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

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

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

6.9 Signs. All signs must comply with the sign ordinance for the City of Rogers or the following, whichever is more restrictive.

a) Ground Signs.

1) There may be a maximum of one ground sign per building unless the development has entrance drives on two streets, in which case there may be one ground sign at the entrance drive on each street up to a maximum of two total signs.

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

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

b) Wall Signs.

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

b) Pole Sign. One pole sign per site may be allowed by the Developer in the event that any of the following commercial businesses are included within the property.

- 1) Restaurant
- 2) Hotel/Motel
- 3) Financial institution with auto teller

Unless expressly approved by the Developer, pole signs are not permitted.

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

6.10 Driveways and Parking.

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

b) Each development/lot shall provide parking accommodations according to the City of Roger's minimum requirements for Large Scale Developments. All developers/lots are encouraged, but not required, to design the parking areas to allow ingress, egress and parking privileges to the neighboring lots and to the general public.

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

6.11 Lighting. Exterior lighting shall comply with the following:

a) Park Lot.

- 1) Type: Pole-mounted or equivalent approved by the Developer.
- 2) Height: Thirty feet overall.
- 3) Finish: Dark Bronze anodized finish for pole and fixture.

b) Walkways.

- 1) Type: 8" Round bollard light
- 2) Finish: Dark bronze anodized finish

c) Lighting to highlight building shall be at ground level with dark bronze anodized finish for fixtures.

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

e) All exterior lighting shall be shielded and confined within the site boundaries.

6.12 Landscaping.

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

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



6.13 Maintenance of Areas in Public Rights of Way.

a) Each Lot Owner shall pay to the Developer or its assignee an annual maintenance charge, which charge shall be due and payable annually in advance on the first day of January in each year. The first year fee shall be prorated on a daily basis from the date of closing through December 31 of that year. The maintenance fund will be used for improving (not initial development) and maintaining the rights-of-ways (the "Public Areas") in the Property in such a manner as is deemed necessary by the Developer to maintain the overall attractiveness of the Property, including but not limited to maintaining attractive landscaping in the Public Areas, or for doing any other thing necessary in the opinion of the Developer, for keeping the Public Areas neat or in good order. The maintenance of the green areas for each individual Lot within the public right-of-way shall be the responsibility of the Lot Owner.

b) The maintenance charge shall be computed based upon the ratio of the square foot area of each Lot within the Property is to the total square foot area of all property within the Property, less the Public Areas. The payment by Owner at the beginning of each year shall be based upon an estimate by the Developer and adjusted up or down at year-end.

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

d) Any unpaid amounts for general maintenance of the Public Areas or for specific maintenance performed by the Developer due to the Owner's failure to maintain it slot shall become a lien against the subject Lot.

e) By virtue of the plat and accompanying covenants or assurances, all lots are subject to an assessment to the City of Rogers for funding future traffic signalization at Pleasant Grove Road. It shall be the responsibility of the lot owner to contact the City of Rogers for specifics.

**Article VII**

**Termination, Modification and Assignments.**

7.1 **Term.** The covenants, conditions and restrictions and reservations contained herein shall continue in full force and effect until January 1, 2025 and shall thereafter be renewed automatically from year to year unless and until terminated as provided in paragraph 8.2 hereof.

7.2 **Terminations and Modification.** The covenants, conditions, restrictions and reservations contained herein may be terminated, extended, modified or amended as to the whole of the Property or any portion thereof, with the written consent of the owners of 50% of the Property (other than Property dedicated to the Public Areas). Such termination, extension, modification or amendment shall be immediately effective on the recording the proper instrument in writing executed and acknowledged by such Owner in the office on the Clerk and Ex-Officio Recorder of Benton County, Arkansas.

7.3 **Assignment of Developer's Rights and Duties.** Any and all rights, powers and reservations of the Developer herein contained may be assigned by the Developer to any person, corporation or association or committee which will assume any or all of the duties of Developer hereunder, and upon any such person, corporation or association's evidencing its consent in writing to accept such assignment, said assignee shall, to the extent of such assignment, assume Developer's duties hereunder, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by the Developer herein. Upon such assignment, and to the extent thereof, the Developer shall be relieved from all liabilities, obligations and duties hereunder. The term Developer as used herein includes all such assignees and their heirs, successors and assigns. If at any time the Developer ceases to exist and has not made such an assignment, a successor developer may be appointed by the Owners of 50% of the Property (other than Public Areas) upon compliance with the requirements of paragraph 8.2 of the Article VIII.

**Article VIII**

**Miscellaneous**

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

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

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

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

Arkansas National Bank  
Attn: Dan Dykema  
P.O. Box 699  
Bentonville AR. 72712

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

EXECUTED on the date first mentioned above.

Arkansas National Bank

By

  
Dan Dykema, CEO

**ACKNOWLEDGMENT**

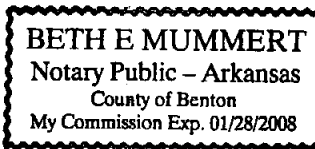
STATE OF ARKANSAS

COUNTY OF BENTON

On this day before me, a Notary Public, duly commissioned, qualified and acting within and for said county and state, appeared the within named Dan Dykema, CEO, Arkansas National Bank, to me personally well known, who stated he was duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said partnership and further stated and acknowledged that he had so signed, executed, and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal this 4<sup>th</sup> day of March, 2003.





My Commission Expires: