

**HABBERTON CROSSING
DEVELOPMENT PLAN
PLANNED UNIT DEVELOPMENT**

NOTE: The approved final development plan shall be binding on all subsequent owners of the land until revised or repealed as authorized in Chapter 130 of the Springdale Code of Ordinances.

1. General Project Information

- A. Ownership: First Western Bank, an Arkansas state bank
Steve Gramling, President
401 W. Walnut St.
Warranty Deed 2008-00017952; filed 06/30/2008

- B. Developer: Arkansas Development Services, Inc, an Arkansas corporation
Kim Fugitt
1200 Joyce Blvd
Fayetteville, AR 72703

- C. Civil Engineer & Land Surveyor: Blew & Associates, P.A.
524 W. Sycamore, Suite 4
Fayetteville, AR 72703

- D. Size: 18 acre tract – legal description as follows:

- E. Project Name: Habberton Crossing

- F. Site Plan: Preliminary Plat attached as Exhibit A

2. Development Strategy

- A. Designed to provide a unique housing opportunity unlike any other in Springdale.
- B. Small building footprint on a minimal lot to create a development with low impact on city infrastructure, making effective and efficient use of the land and minimizes impervious surfaces for maximum environmental benefit.
- C. Designed to serve a growing segment of the population seeking affordable housing with low impact on the environment and common maintenance opportunities at the same time offering all the benefits of a single family detached home.

3. Permitted Use in Habberton Crossing PUD

- Unit 1 – city-wide public uses by right
- Unit 8 – single-family dwelling
- Unit 9 – zero-lot line

4. Site Development Requirements

A. Density, Bulk, Area and Yard Regulations

Density – 5.4 units per acre

Open space – 2.5 acres common area with final build out

Lot size – minimum lot size of 40 X 75 – 3,000 square foot lot

Setback	Front	15'
	Front with Garage	20'
	Interior Side	0'
	Exterior Side	15'
	Rear	15'

- B. All lots in Habberton Crossing shall be zero-lot lines with a detached single-family dwelling, located on individually platted lots in such a manner that one of the building's sides rests directly on a lot line. The same interior property line cannot be utilized for zero side yard construction on adjacent lots. Exhibit A (Preliminary Plat of Habberton Crossing) indicates the location of each dwelling on a lot and the buildable area.
- C. Lots within the Habberton Crossing shall be conveyed subject to one side yard maintenance easement, which easement shall be for the benefit of the adjacent

lot, and the right to create, grant and reserve such easements is hereby preserved by the Developer for itself and its successors in interest. Said maintenance easement shall be the width of the distance from the side yard property line to edge of the foundation of the Dwelling on the adjacent Lot, as built, and shall extend from the front fence to the rear fence as shown on Exhibit A.

The following rules prescribe the terms, conditions and uses of said easements, both by the Owner of the easement (the dominant tenement) and the Owner of the land under the easement (the servient tenement).

(i) The Owner of the lot which is benefited by the easement (the dominant tenement), except as otherwise provided in this Section, shall have the use of the surface of the easement area for the sole and only purpose of maintaining and repairing said Owner's Dwelling.

(ii) The Owner of the Lot which is benefited by the easement (the dominant tenement), shall have the right at all reasonable times to enter upon the easement area for normal and customary residential maintenance, only after providing the Owner of the land under the easement (the servient tenement) reasonable written notice.

(iii) The Owner of the servient tenement shall have the right of surface drainage over, along and upon the easement area for water resulting from the normal use of the servient tenement and the dominant tenement shall not use the easement area in such manner as will interfere with such drainage.

(iv) The Owner of the dominant tenement shall not attach any object, except the fences described above, to the side of the Dwelling on the adjacent lot. No structure shall be constructed or placed upon the side yard easement by either tenement. Any landscaping placed or planted within the maintenance easement that is removed and/or damaged by the Owner of the dominant tenement shall be replaced by the Owner of the dominant tenement to the extent possible. If replacement of said landscaping is not possible, the Owner of the dominant tenement shall compensate the Owner of the servient tenement for the removal and/or damage of said landscaping.

(v) The Owner of the dominant tenement as a condition to the exercise of the right of access provided for shall indemnify and hold harmless the Owner of the servient tenement from any and all damage to the Dwelling, yard and landscaping of the servient tenement caused by such Owner's use of the maintenance easement.

- D. Dwellings shall be of conventional construction. The floor area of the main residential structure (heated and cooled) on a lot, not including open porches, attics, or garages, shall not be less than 1,200 square feet and shall not be greater than 1,800 square feet.
(Homes will range in size from 1350-1450 square feet and in price from \$143,000 to \$153,000. The plans are similar yet varied enough externally to create an individual and persona identity.)
- E. All dwelling shall be three (3) bedroom— two or two and one-half (2 or 2½) bath, constructed with granite counter tops, walk-in closets, optional wood floors and stainless steel appliances. The master bedroom will be located on the ground floor in all available options. Private, fenced side yard acts as private green space between the dwellings. No windows or openings in one dwelling shall be allowed to open into the private space of another.
- F. No dwelling shall be erected, altered, or placed on a Lot which shall contain more than two (2) stories.
- G. All dwelling shall have a two (2) car attached garage that shall be used for the parking of the occupants vehicles and shall not be used as storage units or living space. Two (2) additional parking spaces shall be provide at each dwelling in the driveway and additional guest parking will be made available on one side of the street as shown on Exhibit A. Parking on the grass or in the yard is prohibited.
- H. All streets as shown on Exhibit A shall be constructed to City of Springdale standards and dedicated for public use with the exception of the north entrance to Habberton Crossing that is identified as "Private" on Exhibit A. Sidewalks shall be constructed on all common areas as shown on the Plat at the developer's expense before a final plat can be recorded. All curb and gutter shall be rolled and 24" wide per detail sheet as shown on the preliminary plat.
- I. All other easements shown on Exhibit A shall be further dedicated to the public use as easements and rights of way, sidewalks and all drainage detention ponds as designated for the several purposes of constructing, maintaining, operating, repairing, replacing and servicing all public or quasi-public utilities, together with the right of ingress and egress for such purposes as aforesaid being reserved to the employees, agents and designees of any public or quasi-public utility providing service to the lots within the Habberton Crossing.
- J. Within said easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance utilities. Privacy fences may be erected within or across easements

knowing that damage or removal of said fence due to utility installation or maintenance shall be repaired or replaced by the property owner. The owner of a lot within the development shall be responsible for maintaining all improvements within the boundaries of said lot, except for those improvements for which a utility company is responsible or those areas for which the Association shall be responsible. The Association shall own and maintain all common areas including the private drive access located at the northwest corner of the development.

- K. Service lines for all public or quasi-public utilities shall be located underground in the easement ways reserved for utility service as shown on Exhibit A with the exception of the electrical service along Habberton Road that exists at the time of development approval. Service lines to all dwellings located on a lot shall be underground, and shall run from the nearest source of each utility within the easement to the point of use as determined by the location and construction of such dwelling as the same may be located upon the lot. The supplier of each and every public or quasi-public utility shall hereafter be deemed to have a definite, permanent, effective and exclusive easement, extending from the source of said utility within the easement to the point of use at each dwelling. The supplier of each utility, through its proper agents and employees, shall at all times have the right to access to said easement or easements, as shown on said Exhibit A or as provided for by future dedications. The easement is granted for the purpose of installing, maintaining, removing or replacing any portion of the above ground or below ground facilities. The owner of a lot shall not allow any activity on said lot, including construction or alternation of grade, which may interfere with the operation of any utility line and appurtenances thereto. Repairs or cost of relocation occurring as a result of such activities shall be paid for by the owner of the lot. Shrubbery shall not be placed so as to interfere with the reading of, or the normal maintenance of, any utility meter.
- L. Each dwelling is pre-designed and designated so as to coordinate building styles, materials and details. The dwellings are all designed in a traditional style with covered porches in many instances and located to within 20' of the street right-of-way to maximize the landscaping at the street and create a condensed and coordinated "streetscape".
- M. Each dwelling shall be constructed on a permanent foundation made of either concrete or pier and beam. All dwellings shall be similar in size, shape and a common color scheme shall be followed throughout Habberton Crossing.
- N. Each lot shall have a natural wood fence or ornamental iron, not greater than six (6) feet high, constructed parallel to the front of the dwelling across the side yard. Each Owner may elect, but shall not be required, to install a natural wood

privacy fence not greater than six (6) Feet to encompass the entire lot. No chain link type fence shall be erected on any lot.

- O. Each lot will be landscaped with sod, a 2.5 caliper shade tree, 6 "knock-out" rose bushes and 4 day lilies in the front yard prior with an automatic irrigation system maintained by the property owners association. This landscaping and automatic irrigation system to be installed prior to occupancy of the dwelling. The side yard and rear yard will be seeded in fescue and landscaped per the owner's desire.

All landscaping (irrigation, sod, plants and trees) installed during the initial construction of each dwelling, other than landscaping located in the side yards and rear yards (areas between and behind the dwellings) of each lot, shall be maintained (including fertilization and irrigation) by the Association. The Association will mow the grass located within such side yards and rear yards, if any, provided the Owner allows free access to such side yard and/or rear yard so that maintenance crews can access same and makes arrangements with the POA or lawn care company to pay individually for said service. Damages occurring during the maintenance of the side or rear yard process shall be the liability of the lawn care service and pursued by the individual.

- P. Common areas will be landscaped as constructed with 16—2.5 caliper shade tree shade trees, sod and an automatic irrigation system and will be maintained by the property owners association (including fertilization and irrigation).
- Q. Access driveways and other paved areas for vehicular use on a lot shall have a base of compacted gravel, crushed stone or other approved base material and shall be surfaced with concrete or asphalt. Driveways may access the adjacent street at one location only and access the garage at one location only and cannot exceed 22" wide.
- R. All mailboxes shall be installed, provided and maintained by the Association and be deemed as Common Property.

5. Phasing

A. Development is planned in three (3) phases

- Phase 1 – 30 lots and a central common area composed of 6 future building lots, the 6 lots (lot 19-24) will not be developed until Phase 2 is started.
- Phase 2 – additional 37 lots, large 2.5 acre central common area with bus stop and playground equipment

- Phase 3 – final 29 lots and completion of the street system

B. Timing will be developed based on perceived market demand.

6. Dwelling design --

- A. Acceptable exterior wall materials – brick, stone, cedar shake, cementeous board or wood;
- B. Acceptable exterior wall colors 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.
- C. Roofing materials and colors –
- D. Chimney materials
- E. Stained or colored pavement materials
- F. Fencing and screening materials
- G. In the event that a dwelling is destroyed, by fire, storm or otherwise, such dwelling, if reconstructed, shall be placed in the same location on the lot and have the same exterior shape, window placement, dimensions and colors, as close as practicably possible per the approved plat, as the dwelling that was destroyed.

7. Property Association

- A. The Habberton Crossing Home Owners Association, Inc. (hereinafter referred to as the "Association" and more particularly defined herein) its successors and assigns shall be established as the organization responsible for the responsibilities as outlined in the adopted Development Plan for Habberton Crossing.
- B. Common Property shall mean and refer to any and all areas of land together with all improvements located thereon within the development which are known, described or designated as such on any recorded subdivision plat of the 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 Properties

8. Architectural Control Committee

- A. Designation of Committee. The Association shall have an Architectural Control Committee (the "Committee"), consisting of the Developer during the Developer Control Period. After the Development Control Period the Board shall appoint three (3) persons to constitute the Committee. Each appointment shall have a term of one year.
- B. Designation of Committee. The Association shall have an Architectural Control Committee (the "Committee"), consisting of the Developer during the Developer Control Period. After the Development Control Period the Board shall appoint three (3) persons to constitute the Committee. Each appointment shall have a term of one year.
- C. Content of Plans and Specifications. The plans and specifications to be submitted and approved shall include the following:
- (i) A statement by the Owner and his architect, engineer, 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.
 - (ii) A site plan drawn to scale indicating:
 - (a) Name of subdivision, lot, block, address and/or other required legal description of the property, and North directional arrow.
 - (b) Property lines, including streets, rights-of-way, lakes, casements, set back lines and all dimensions,
 - (c) Existing grade and location of proposed cut and/or fill, indicating approximate slope and height or depth of each (2' minimum interval).
 - (d) Proposed sewer system footprint.
 - (e) Drainage plans indicating drainage patterns away from building to swales, culverts and other drainage facilities.
 - (f) Parking and paving plans indicating the location of all parking areas, driveways and sidewalks.

(g) Location of utility services, including particularly the location of all above-ground equipment such as transformers, risers, meters, sewage grinder pumps and tanks and similar items.

(h) Approximate location, size and kind of existing and proposed trees great than four inches in diameter measured at a point 3 feet above the grade.

(i) Location of all structures, retaining walls, garbage and trash containers, decks, terraces, patios and similar outdoor living areas, walks, walls, fences, signs, fountains, air conditioner compressors and other HVAC equipment and components located outdoors, mechanical equipment, and other proposed improvements.

(j) Location of contractor's temporary facility, outhouses and other temporary structures and items, to be used during construction.

(k) Any temporary access to the site.

(iii) 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 Committee.

(iv) Exterior elevations providing the exterior views of all structures, fences, signs and similar Improvements labeled in accordance with the site plan. 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.

(v) Specifications or color boards as necessary to describe the (i) exterior wall materials (acceptable exterior wall materials are brick, stone, cedar shake, cementeous board or wood; 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.

(vi) The landscaping plan indicating proposed plantings (by common and botanical names) and their sizes; exterior lighting system, including decorative, security and other types of illumination (including location and type of lighting fixtures), irrigation system, special landscape features including without limitation ponds and fountains; flower and vegetab1e gardens, and similar outdoor improvements. A residential landscaping irrigation system is required for the front yard of each Lot and such irrigation design and specifications shall be

included in the plans and specifications submitted to the Committee. Bermuda or Fescue Sod, as deemed appropriate by the Committee, is required on all Lots.

(vii) A fee in the amount of \$100.00 (checks are to be made payable to the Association) for costs or expenses the Committee may incur in reviewing, or having professionals review, the plans and specifications as submitted. Such fee shall be non-refundable. The Committee reserves the right to waive all of or a portion of this fee.

9. Miscellaneous Requirements

- A. No outbuilding, tent, shack, garage, barn or any vehicle on a lot may be used as living quarters, either permanently or temporarily.
- B. No trailer, mobile home, tent, construction, shack, or other out building shall be erected or kept on a Lot in the Habberton Crossing except for temporary use by construction contractors for a reasonable period of time. Construction Trailers are for the storage of construction equipment and supplies and shall not be used as living quarters.
- C. No tow trucks, motorcycles, recreational vehicles or vehicles used for recreation purposes shall be stored or parked on a Lot, driveway or in the Habberton Crossing, including public streets and alleys.
- D. No vehicle that has been inoperative for a period of more than three (3) days shall be stored, maintained or repaired on a Lot or driveway. No Boats and other recreational equipment shall be stored on a Lot or driveway. The parking or storage of unused or unlicensed motor vehicles is prohibited in the Habberton Crossing.
- E. No obnoxious or offensive trade or activity shall be carried on or upon a Lot, nor shall anything be done thereon that maybe or may become an annoyance or nuisance to the neighborhood.
- F. No future mineral development of any kind shall be permitted affecting the surface of the Lots covered by these restrictions.

- G. No animals, livestock, or poultry of any kind shall be raised, bred or kept on a Lot except that dogs, cats or other household pets maybe kept provided they are not kept, bred or maintained for any commercial purpose and that the owners comply with all applicable city ordinances. All dogs, cats and other domestic animals permitted to be kept within the Habberton Crossing by these restrictive covenants and any city code shall be kept and maintained in the fenced side yard of a Dwelling.
- H. No animal shall be chained, tied or otherwise restrained either in the rear or front yard of a Lot. All dog houses or other animal shelters shall not exceed 9 square feet in area and shall be no taller than 4" to the highest point and shall be kept in the side or rear yard of a Dwelling.
- I. Owners shall not be permitted to have "barn" or pasture animals regardless of the number of Lots owned by any one owner.
- J. One "greenhouse" per lot no larger than 32 square feet usable area and no taller than 8' at its highest point shall be permitted.
- K. Each Lot shall be permitted one antenna, aerial satellite dish or similar devise for the reception of television, radio or information services so long as the devise is located within the building set back limits and to the rear of the main residential building and is used for noncommercial purposes only. Each antenna, aerial satellite dish or other devise shall be of a minimum elevation to permit adequate reception, not higher than the primary Dwelling located on the Lot, and the transmitting and receiving portion shall not be more than two (2) feet in diameter at its widest point and not visible from the front of the Dwelling.
- L. In the event that any Lots are sold and no Dwelling is immediately erected, the owner or owners of such Lot or Lots shall keep said property mowed and in a neat sanitary condition.
- M. No sign of any kind shall be displayed to the public view on a Lot, 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 of a Dwelling thereon. Political campaign signs no larger than 5 square feet per side shall be permitted for 60 days prior to any federal, state or municipal election. In no event shall any such sign stand more than four (4) feet above ground level nor be more than five (5) square feet in size nor be lighted at night. "Garage

sale” signs are permitted once per year per lot and for no longer than 4 days in any one calendar year.

- N. No Owner shall be allowed to conduct any business or commercial activity or enterprise upon or within any Lot. No commercial type buildings shall be constructed on any Lot.
- O. The Developer may maintain up to 3 model homes or sales office in the Habberton Crossing. Any such sales office shall be designed to be compatible with a residential Dwelling. A “model home” may not be used as such for more than 2 years.
- P. No registered sex offenders may occupy any residence in Habberton Crossing at any time for any reason.
- Q. No existing, erected building or structure of any sort may be moved onto or placed on any of the lots in Habberton Crossing.

**DECLARATION OF BILL OF ASSURANCES AND PROTECTIVE
COVENANTS OF HABBERTON CROSSING,
AN ADDITION TO THE CITY OF SPRINGDALE, ARKANSAS**

KNOW ALL MEN BY THESE PRESENTS:

That ARKANSAS DEVELOPMENT SERVICES, INC., an Arkansas corporation, being the owner and developer ("Developer") of the following described property located in the City of Springdale, Washington County, Arkansas, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF.

Said property been duly platted as HABBERTON CROSSING, an Addition to the City of Springdale, Washington County, Arkansas (the "Subdivision"), said plat being recorded in the office of the District Clerk and Ex-Officio recorder of Washington County, Arkansas on _____ in Plat Book ____, Page __ and __, 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 Bill of Assurances and Protective Covenants (this "Declaration") setting forth the following limitations, restrictions and uses on Lots 01 through 96, inclusive, of the Subdivision.

Developer does hereby state that this Declaration shall establish covenants running with the land for the period of time hereinafter set forth, as provided by law and shall be binding upon all purchasers and owners of Lots 01 through 96, inclusive, of the Subdivision and upon such owner's heirs, personal representatives, successors and assigns, mid upon all persons claiming under them.

It shall be lawful for the Habberton Crossing Home Owners Association, Inc. (Home Owners Association sometimes abbreviated herein as "H.O.A") (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 and to recover damages for such violations. Any rights reserved hereunder to the Developer may also be exercised by any owner of lots situated in said Subdivision, either individually or collectively, or the Association. 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.

1. Covenants and 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.

“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” any additions thereto.

“Association” shall mean and refer to Habberton Crossing Property Owners Association, Inc., an Arkansas non-profit corporation, its successors and assigns.

“Board” or “Board of Directors” shall mean and refer to the Board of Directors of the Association elected or appointed in accordance with the provision of the Articles of Incorporation and Bylaws of the Association. The “Board” shall be made up of the president, secretary and treasurer.

“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 Properties 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.

“Developer” shall mean and refer to Arkansas Development Services, Inc., an Arkansas corporation, and its successor(s) and assign(s).

“Developer Control Period” shall have the meaning set forth in Section 2, “Rights Reserved for Developer.”

“Dwelling(s)” shall mean and refer to a single family residence constructed on a Lot in the Subdivision that has been issued a certificate of occupancy by the City of Springdale, Arkansas.

“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.

“Member(s)” or “member(s)” shall mean and refer to each owner of a lot.

“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.

“Plat” shall refer to the Habberton Crossing P.R.D. Final Plat and the Replat Of Lots 01-96 of the Habberton Crossing P.R.D. Final Plat of survey set out in Exhibit “B” attached hereto.

2. Rights Reserved for Developer

A. Developer, as owner of the Property, expressly reserves the rights set forth in this Section with Respect to the Property.

B. Developer Control Period

(i) 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 or Residence and shall terminate no later than sixty (60) days after Developer deeds at least ninety percent (90%) 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.

(ii) 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.

(iii) N/A

(iv) 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.

(v) 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, the provisions of the Habberton Crossing P.U.D. as adopted by the City of Springdale, Arkansas, or any common law principle or judicial decision that may affect the validity and enforceability of this Declaration.

(vi) Developer reserves the right to amend or supplement this Declaration in any manner necessary to satisfy the requirements of 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.

(vii) 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. Actions by the Developer or Board shall be limited to those outside the City of Springdale, Arkansas adopted ordinances with particular reference to the Habberton Crossing P.U.D. as approved and documented.

3. Membership and Voting Rights in the Association.

A. **Membership.** Every owner of a Lot shall automatically be a member of the Association.

B. **Voting Rights.** The Association shall have one (1) class of membership for purposes of Voting. Owners shall be entitled to one (1) vote for each Lot owned by the owner.

C. **Quorum, Notice and Voting Requirements.** The quorum, notice, and voting requirements of and pertaining to the Association are set forth within the Articles of Incorporation and Bylaws of the Association, as the same may be amended from time to time. Subject to the provisions of Section B above and any other provision to the contrary set out in this Declaration, any action by or on behalf of the Association may be taken with the assent given in writing and signed by members who collectively hold or control a majority of the outstanding votes of the Association.

4. Architectural Control Committee.

A. **Designation of Committee.** The Association shall have an Architectural Control Committee (the "**Committee**"), consisting of the Developer during the Developer Control Period. After the Development Control Period the Board shall appoint three (3) persons to constitute the Committee. Each appointment shall have a term of one year.

B. **Function of the Committee.** 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, Improvement or Structure 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 Committee prior to the commencement of construction. Once the Committee has approved the plans and specifications, the Committee shall issue a letter to the Owner authorizing the Owner to commence the construction ("Letter"). A copy of the plans, specifications, and Lot plans as finally approved shall be deposited with the Committee. The Committee shall have the power to employ professional consultants to assist it in discharging its duties. The decisions of the Committee shall be final, conclusive and binding upon the applicant.

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

- (i) A statement by the Owner and his architect, engineer, 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.
- (ii) A site plan drawn to scale indicating:
 - (a) Name of subdivision, lot, block, address and/or other required legal description of the property, and North directional arrow.
 - (b) Property lines, including streets, rights-of-way, lakes, casements, set back lines and all dimensions,
 - (c) Existing grade and location of proposed cut and/or fill, indicating approximate slope and height or depth of each (2' minimum interval).
 - (d) Proposed sewer system footprint.
 - (e) Drainage plans indicating drainage patterns away from building to swales, culverts and other drainage facilities.
 - (f) Parking and paving plans indicating the location of all parking areas, driveways and sidewalks.
 - (g) Location of utility services, including particularly the location of all above-ground equipment such as transformers, risers, meters, sewage grinder pumps and tanks and similar items.
 - (h) Approximate location, size and kind of existing and proposed trees great than four inches in diameter measured at a point 3 feet above the grade.

(i) Location of all structures, retaining walls, garbage and trash containers, decks, terraces, patios and similar outdoor living areas, walks, walls, fences, signs, fountains, air conditioner compressors and other HVAC equipment and components located outdoors, mechanical equipment, and other proposed improvements.

(j) Location of contractor's temporary facility, outhouses and other temporary structures and items, to be used during construction.

(k) Any temporary access to the site.

(iii) 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 Committee.

(iv) Exterior elevations providing the exterior views of all structures, fences, signs and similar Improvements labeled in accordance with the site plan. 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.

(v) Specifications or color boards as necessary to describe the (i) exterior wall materials (acceptable exterior wall materials are brick, stone, cedar shake, cementeous board or wood; 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.

(vi) The landscaping plan indicating proposed plantings (by common and botanical names) and their sizes; exterior lighting system, including decorative, security and other types of illumination (including location and type of lighting fixtures), irrigation system, special landscape features including without limitation ponds and fountains; flower and vegetable gardens, and similar outdoor improvements. A residential landscaping irrigation system is required for the front yard of each Lot and such irrigation design and specifications shall be included in the plans and specifications submitted to the Committee. Bermuda or Fescue Sod, as deemed appropriate by the Committee, is required on all Lots.

(vii) A fee in the amount of \$100.00 (checks are to be made payable to the Association) for costs or expenses the Committee may incur in reviewing, or having professionals review, the plans and specifications as submitted. Such fee shall be non-refundable. The Committee reserves the right to waive all of or a portion of this fee.

D. Installation & Maintenance of Landscaping. All landscaping (irrigation, sod, plants and trees) installed during the initial construction of each Dwelling, other than landscaping located in the side yards and rear yards (areas between and behind the Dwellings) of each Lot, shall be maintained (including fertilization and irrigation) by the Association. The Association will mow the grass located within such side yards and rear yards, if any, provided the Owner allows free access to such side yard and/or rear yard so that maintenance crews can access same and makes arrangements with the POA or lawn care company to pay individually for said service. Damages occurring during the maintenance of the side or rear yard process shall be the liability of the lawn care service and pursued by the individual.

E. Definition of Improvement. "Improvement" shall mean and include all Dwellings, buildings and roofed structures, parking areas, fences, walls, hedges, mass plantings, driveways, 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.

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

G. Location on Lot. No Dwelling, Building, Structure or Improvement shall be located on a Lot nearer to the front Lot line, side Lot line or rear Lot line established for each Lot by the Plat. In the event that a Dwelling is destroyed, by fire, storm or otherwise, such Dwelling, if reconstructed, shall be placed in the same location on the Lot and have the same exterior shape, window placement, dimensions and colors, as close as practicably possible per the approved plat, as the Dwelling that was destroyed and must be approved by the Committee.

H. Commercial Structures. No Building, Structure or Improvement of any type may ever be placed, erected or used for business, professional, trade or commercial purposes on any portion of any Lot.

I. Outbuildings Prohibited. No outbuildings or other detached structure appurtenant to the Dwelling may be erected on any of the Lots hereby restricted.

J. Noxious Activity. No noxious or offensive trade or activity shall be carried on upon any Lot or public right-of-way, nor shall any garbage, trash, rubbish, tree limbs, leaves or cuttings, ashes or other refuse be thrown placed or dumped upon any vacant Lot, street or road, nor on any Lot unless placed in a container suitable for garbage pickup; nor shall anything ever be done which may be or become annoyance or nuisance to the neighborhood.

K. Oil and Mineral Operations. No oil drilling, oil development operating, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any

Lot, nor shall oil wells, tanks, tunnels, mineral excavations 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.

L. Existing Structure. No existing, erected building or structure of any sort may be moved onto or placed on any of the Lots without the consent in writing of the Committee.

M. Temporary Structure. No temporary structures are permitted.

N. The Basis of Approval. Approval of plans and specifications shall be based on, among other things, adequacy of site dimensions, structural design, conformity and harmony of external design and of location with neighboring Dwellings and sites, relation of finished grades and elevations to neighboring sites, and conformity to both the specific and general intent of the protective covenants. The Committee shall establish certain architectural guidelines, which shall be approved by the Board of Directors (the Architectural Guidelines), and all plans and specifications must comply with Architectural Guidelines then in force and effect. However, the Committee may approve exceptions to the Architectural Guidelines by a three-fourths (3/4th) vote. The current Architectural Guidelines shall be available at the office of the Association or the office of the Developer.

O. Majority. A majority vote of the Committee is required for approval or disapproval of proposed improvements.

P. Failure of Committee to Act. If the Committee fails to approve, disapprove, or reject as inadequate proposed plans and specifications within thirty (30) days after proper written submittal, they shall be deemed approved. If plans and specifications are not sufficiently complete or are otherwise inadequate, the Committee may reject them entirely, partially or conditionally approve

Q. Limitation of Liability. Neither the Developer, the Association, the Committee 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 judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans and specifications.

R Driveways. Access driveways and other paved areas for vehicular use on a Lot shall have a base of compacted gravel, crushed stone or other approved base material and shall be surfaced with concrete or asphalt. Plans and specifications for driveways, culverts, pavement edging or markers shall be as approved in writing by the Committee. Driveways may access the adjacent street at one location only and access the garage at one location only, unless otherwise approved by the Committee. Driveways cannot exceed 22" wide.

S. Mailboxes. All mailboxes shall be installed, provided and maintained by the Association. Further, all mailboxes shall be deemed Common Property.

5. Covenants for Assessments.

A. Creation of the Lien and Personal Obligations of Assessments. The Developer, for each Lot owned by it within the Subdivision, hereby covenants and agrees, and each Owner of any Lot, by acceptance of a deed therefore, whether from the Developer or some subsequent grantor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agreement (and such covenant and agreement shall be deemed to constitute a portion of the purchase money and consideration for acquisition of the Lot), to pay to the Association the following:

- (i) Regular assessments or charges for maintenance, taxes and insurance for the Common Property;
- (ii) Special group assessments for capital improvements or unusual or emergency matters, such assessments to be fixed, established and collected from time to time as hereinafter provided;
- (iii) Special individual assessments which might be levied against individual Lot owners to reimburse the Association for extra costs for maintenance and repairs caused by the willful or negligent acts of the individual owner, his family, guests, or invitees, and not caused by ordinary wear and tear, including the failure to properly maintain their Dwelling and/or to appropriately keep the Dwelling properly painted.
- (iv) Individual assessments and fines levied against individual Lot owners for violation of rules as pertaining to the Association and/or the Common Property.
- (v) The regular, special group, and special individual assessments, together with such late charges, interest and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon each Lot against which each such assessment is made.
- (vi) Notwithstanding the above, the Developer shall not be required to pay the association dues, assessments or other charges set forth herein until ninety (90%) percent of all Lots in the Subdivision have been sold.

B. Purpose of Assessments. The assessments levied by the Board on behalf of the Association shall be used for the purpose of enhancing the natural environment, appearance and beauty of the Subdivision and promoting the health, recreation, safety, and general welfare of the residents of the Subdivision.

C. Basis and Amount of Regular Maintenance Assessments.

(i) The initial regular base assessments shall be forty and No/100 Dollars (\$40.00) per month paid annually and due on or before March 1st. Assessments not paid by March 31st will be charged a late fee to be determined by the Association. Assessments may also be paid monthly if a member has set up for the payment of said assessments either through automatic withdrawal or through escrow funds. The first years dues shall be paid in advance at the closing of each sale of each lot by the closing agent by separate check made payable to the Habberton Crossing P.O.A. The Board may increase the regular base assessment amount as deemed appropriate to cover escalation of prices for services. Assessments shall apply to all Lots, unless otherwise provided herein.

(ii) The Board shall give notice to all members at least thirty (30) days in advance of the date all regular or special assessments are due. The Board may prescribe from time to time that the regular base assessments are to be collected on an annual, semiannual, quarterly, or monthly basis, and the Board shall prescribe the appropriate due dates. All regular base assessments shall be collected in advance. The due date or dates (if it is to be paid in installments) of any other assessments or special assessment shall be fixed in the respective resolution authorizing such assessment.

D. Special Group Assessments. In addition to the regular assessments authorized by Section C, the Board may levy in any fiscal 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 Property.

E. Rate of Assessments. Except as noted herein, regular and special group assessments shall be fixed at a uniform rate for all Lots owned by Members, unless otherwise approved by the Board. The failure to pay the assessment by the owner of a Lot shall constitute a lien against the Lot and the Association may pursue any remedy available to it at law or in equity to collect such lien including initiation of a foreclosure suit in a court of competent jurisdiction

F. Effect of Non-Payment of Assessment; the Personal Obligation of the Owner: the Lien: and Remedies of Association.

(i) If any assessment or any part thereof is not paid on the date(s) when due, then the unpaid amount of such assessment shall be considered delinquent and shall, together with any late charge and interest thereon at the maximum rate allowed under applicable law and costs of collection thereof, thereupon becoming a continuing debt lien on the Lot of the non-paying owner which shall bind such hands of the owner and owner's heirs, executors, administrators, devisees, personal representatives, successors, and assigns. The Board shall have the right to reject partial payments of an unpaid assessment and demand the full payment thereof. The lien for unpaid assessments shall be unaffected by any sale or assignment of a Lot and shall continue in full force and effect. No owner may

waive or otherwise escape liability for any assessment provided herein by non-use of the Common Property or abandonment of the Lot;

(ii) The Board may also give written notification to the holder(s) of a mortgage on a Lot of a non-paying Owner of such owner's default in paying any assessment when such default has not been cured within thirty (30) days of the original date due, provided that the Board has, theretofore, been furnished in writing with the correct name and address of the holder(s) of such mortgage and a request to receive such notification; and

(iii) The Board may, at its election, retain the services of an attorney to review, monitor, collect, and file suit to foreclose on a lien for unpaid assessments and delinquent accounts, and there shall also be added to the amount of any unpaid assessment or to any delinquent account any and all attorneys' fees and other costs of collection incurred by the Association.

G. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate and inferior to the lien of any bonafide first mortgage or deed of trust now or hereafter placed upon any Lot subject to assessment.

H. Transfer of Ownership. If any Lot or Dwelling should be sold, and the current lot owner has paid dues, the current owner can and should be reimbursed for the prorated portion remaining for the year.

6. General Powers and Duties of the Board of Directors of the Association.

A Powers and Duties. The affairs of the Association shall be conducted by its Board of Directors (sometimes referred to as the "Board").

(i) 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 for in Section 5 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 (including all irrigation equipment under the operation and control of the Association) and fixtures, for use in or on the Common Property;

(b) Landscaping and maintenance of the lawns within the Subdivision, including but not limited to, mowing, mulching, weeding, fertilization, irrigation, etc.;

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

(d) 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;

(e) Legal and accounting services; and

(g) 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 this 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.

(ii) The Board shall have the following additional rights, powers and duties;

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

(b) To make reasonable rules and regulations for the operation of the Common Property and to amend this Declaration from time to time; provided, however, no portion of Paragraph 7 (Use and Division of Lots) of this Declaration may be amended unless not less than two-thirds (2/3) who occupy Dwellings in the Subdivision approve the proposed amendment(s).

B. Maintenance Contracts. Subject to Section 2 above, the Board shall have full power and authority 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.

C. 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.

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

7. Use and Division of Lots.

A. The Developer does hereby dedicate for public use all of the streets as shown on the Plat of the Subdivision as described above, save and except any roads or streets depicted as being "Private" on the Plat. The Developer further dedicates to the public use the easements and rights of way, sidewalks and all drainage detention ponds as designated on the Plat of the Subdivision for the several purposes of constructing, maintaining, operating, repairing, replacing and servicing all public or quasi-public utilities, together with the right of ingress and egress for such purposes as aforesaid being reserved to the employees, agents and designees of any public or quasi-public utility providing service to the Lots within the Subdivision. Within said easements no public utility providing service to the Lots within the Subdivision. Within said easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance utilities. Privacy fences may be erected within or across easements knowing that damage or removal of said fence due to utility installation or maintenance shall be repaired or replaced by the property owner. The owner of a Lot within the Subdivision shall be responsible for maintaining all improvements within the boundaries of said Lot, except for those improvements for which a utility company is responsible or those areas for which the Association shall be responsible. The Association shall own and maintain all common areas including the private drive access located at the northwest corner of the development.

B. Supply lines for all public or quasi-public utilities shall be located underground in the easement ways reserved for utility service as shown on the Plat but the electrical lines running over the Subdivision prior to development shall remain above ground. Service lines to all Dwellings located on a Lot shall be underground, and shall run from the nearest source of each utility within the easement to the point of use as determined by the location and construction of such Dwelling as the same may be located upon the Lot. The supplier of each and every public or quasi-public utility shall hereafter be deemed to have a definite, permanent, effective and exclusive easement, extending from the source of said utility within the easement to the point of use at each Dwelling or other structure. The supplier of each utility, through its proper agents and employees, shall at all times have the right to access to said easement or easements, as shown on said Plat or as provided for in this Declaration. The easement is granted for the purpose of installing, maintaining, removing or replacing any portion of the above ground or below ground facilities. The owner of a Lot shall not allow any activity on said Lot, including construction or alternation of grade, which may interfere with the operation of any utility line and appurtenances thereto. Repairs or cost of relocation occurring as a result of such activities shall be paid for by the owner of the Lot. Shrubbery shall not be placed so as to interfere with the reading of, or the normal maintenance of, any utility meter.

C. All Building Lots in the Subdivision shall be used for one separate single-family detached Dwelling and for no other purpose. Dwellings shall be of conventional construction. The floor area of the main residential structure (heated and cooled) on a Lot within the Subdivision, not including open porches, attics, or garages, shall not be less than 1,200 square feet and shall not be greater than 1,800 square feet.

D. Each Dwelling shall be constructed on a permanent foundation made of either concrete or pier and beam. All Dwellings shall be similar in size, shape and a common color scheme shall be followed throughout the Subdivision.

E. Each Dwelling or other structure constructed on a Lot shall be covered by a roof of composition shingles to be approved by the Developer or Committee. All Dwellings constructed in the Subdivision shall have a private garage to accommodate at least two (2) automobiles. No detached structures shall be allowed to be built on a Lot within the Subdivision.

F. No off-street parking shall be allowed on a regular basis. No parking on sidewalks, grass or off paved areas will be allowed. Garages shall be used to house/park vehicles and not as living or storage facilities. Vehicles belonging to, or used by the resident shall be parked in either the garage or driveway and not in the street. Temporary visitor parking may occur in the public street or other areas specifically designated for visitors. All driveways servicing residential Dwellings, garages and/or out buildings on a Lot shall be composed of concrete. Furthermore, no vehicles, motorcycles, R.V., ATV, trailer, boat, etc. shall be allowed to be parked in or on the side yard of any Lot nor in the driveways or streets. Builder or Owner is required to build sidewalks across the front and/or side of any Lot(s) as shown on the Plat set out on Exhibit "B" in accordance with City of Springdale, Arkansas standards.

G. Each Lot shall have a natural wood fence or ornamental iron, not greater than six (6) feet high, constructed parallel to the front of the Dwelling across the side yard. Each Owner may elect, but shall not be required, to install a natural wood privacy fence not greater than six (6) Feet to encompass the entire Lot. No chain link type fence shall be erected on any Lot.

H. No outbuilding, tent, shack, garage, barn or any vehicle on a Lot may be used as living quarters, either permanently or temporarily. No trailer, mobile home, tent, construction, shack, or other out building shall be erected or kept on a Lot in the Subdivision except for temporary use by construction contractors for a reasonable period of time. Construction Trailers are for the storage of construction equipment and supplies and shall not be used as living quarters. No tow trucks, motorcycles, recreational vehicles or vehicles used for recreation purposes shall be stored or parked on a Lot, driveway or in the Subdivision, including public streets and alleys. No vehicle that has been inoperative for a period of more than three (3) days shall be stored, maintained or repaired on a Lot or driveway. No Boats and other recreational equipment shall be stored on a Lot or driveway. The parking or storage of unused or unlicensed motor vehicles is prohibited in the Subdivision.

I. No obnoxious or offensive trade or activity shall be carried on or upon a Lot, nor shall anything be done thereon that maybe or may become an annoyance or nuisance to the neighborhood. No future mineral development of any kind shall be permitted affecting the surface of the Lots covered by these restrictions. No animals, livestock, or poultry of any kind shall be raised, bred or kept on a Lot except that dogs, cats or other household pets maybe kept provided they are not kept, bred or maintained for any commercial purpose and that the owners comply with all applicable city ordinances. All dogs, cats and other domestic animals permitted to be kept within the Subdivision by these restrictive covenants and any city code shall be kept and maintained in the fenced side yard of a Dwelling, as described in Section 7(G). No animal shall be chained, tied or otherwise restrained either in the rear or front yard of a Lot. All dog houses or other animal shelters shall not exceed 9 square feet in area and shall be no taller than 4" to the highest point and shall be kept in the side or rear yard of a Dwelling. Owners shall not be permitted to have "barn" or pasture animals regardless of the number of Lots owned by any one owner. one "greenhouse" per lot no larger than 32 square feet usable area and no taller than 8' at it's highest point shall be permitted.

J. Each Lot shall be permitted one antenna, aerial satellite dish or similar devise for the reception of television, radio or information services so long as the devise is located within the building set back limits and to the rear of the main residential building as approved by the Developer or Committee and is used for noncommercial purposes only. Each antenna, aerial satellite dish or other devise shall be of a minimum elevation to permit adequate reception, not higher than the primary Dwelling located on the Lot, and the transmitting and receiving portion shall not be more than two (2) feet in diameter at its widest point and not visible from the front of the Dwelling.

K. In the event that any Lots are sold and no Dwelling is immediately erected, the owner or owners of such Lot or Lots shall keep said property mowed and in a neat sanitary condition.

L. No sign of any kind shall be displayed to the public view on a Lot, 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 of a Dwelling thereon. Political campaign signs no larger than 5 square feet per side shall be permitted for 60 days prior to any federal, state or municipal election .In no event shall any such sign stand more than four (4) feet above ground level nor be more than five (5) square feel in size nor be lighted at night. Garage sale" signs are permitted once per year per lot and for no longer than 4 days in any one calendar year.

M. No Owner shall be allowed to conduct any business or commercial activity or enterprise upon or within any Lot. No commercial type buildings shall be constructed on any Lot. The Developer may maintain up to 3 model homes or sales office in the Subdivision. Any such sales office shall be designed to be compatible with a residential Dwelling. A "model home" may not be used as such for more than 2 years.

N. No Lot, nor any portion thereof, shall be split to create an additional Lot in this Subdivision.

O. N/A

P. Lots within the Subdivision shall be conveyed subject to one side yard maintenance easement, which easement shall be for the benefit of the adjacent Lot, and the right to create, grant and reserve such easements is hereby preserved by the Developer for itself and its successors in interest. Said maintenance easement shall be the width of the distance from the side yard property line to edge of the foundation of the Dwelling on the adjacent Lot, as built, and shall extend from the front fence to the rear fence, as described in Section 7(G) above, The following rules prescribe the terms, conditions and uses of said easements, both by the Owner of the easement (the dominant tenement) and the Owner of the land under the easement (the servient tenement).

(i) The Owner of the Lot which is benefited by the easement (the dominant tenement), except as otherwise provided in this Section, shall have the use of the surface of the easement area for the sole and only purpose of maintaining and repairing said Owner's Dwelling.

(ii) The Owner of the Lot which is benefited by the easement (the dominant tenement), shall have the right at all reasonable times to enter upon the easement area for normal and customary residential maintenance, only after providing the Owner of the land under the easement (the servient tenement) reasonable written notice.

(iii) The Owner of the servient tenement shall have the right of surface drainage over, along and upon the easement area for water resulting from the normal use of the servient tenement and the dominant tenement shall not use the easement area in such manner as will interfere with such drainage.

(iv) The Owner of the dominant tenement shall not attach any object, except the fences described in Section 7(G), above, to the side of the Dwelling on the adjacent Lot. No structure shall be constructed or placed upon the side yard easement by either tenement. Any landscaping placed or planted within the maintenance easement that is removed and/or damaged by the Owner of the dominant tenement shall be replaced by the Owner of the dominant tenement to the extent possible. If replacement of said landscaping is not possible, the Owner of the dominant tenement shall compensate the Owner of the servient tenement for the removal and/or damage of said landscaping.

(v) The Owner of the dominant tenement as a condition to the exercise of the right of access provided for shall indemnify and hold harmless the Owner of the servient tenement from any and all damage to the Dwelling, yard and landscaping of the servient tenement caused by such Owner's use of the maintenance easement.

The aforesaid side yard easements will continue so long as completed Dwellings or Dwellings under construction remain on any Lot.

Q. No registered sex offenders may occupy any residence in the subdivision at any time for any reason

R. These covenants, unlike the provisions established in the approved P.U.D. documents, shall run with the land, and shall be binding on all parties and all persons claiming tinter them for a period of twenty-five (25) years from the date this instrument is recorded, (except as amended in accordance with the covenants). After which time said covenants shall be automatically extended for successive period(s) often (10) years unless an instrument signed majority of the then owners of the Lots has been recorded, agreeing to change said covenants in whole or in part.

S. 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.

IN WITNESS WHEREOF, Arkansas Development Services, Inc., an Arkansas corporation, has caused this Declaration of Bill of Assurances and Protective Covenants for Habberton Crossing, P.R.D., an Addition to the City of Springdale, Washington County, Arkansas, to be duly executed by the undersigned, being authorized to do so in accordance with the Operating Agreement of said LLC, this ____ day of _____, 2011.

**ARKANSAS DEVELOPMENT
SERVICES, INC.,
DEVELOPER**

By: _____
Kim Fugitt, Manager

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) **ss.**
COUNTY OF BENTON)

On this _____ day of _____, 2011, before me, a notary public, duly commissioned, qualified and acting, personally appeared **KIM FUGITT**, who acknowledged himself to be the **MANAGER** of **ARKANSAS DEVELOPMENT SERVICES, INC.**, an Arkansas corporation, and that he, as such officer, being duly authorized to do so, executed this instrument for the consideration, uses and purposes therein mentioned and set forth, by signing the name of the business or entity as such officer.

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

Notary Public

My Commission Expires:

Exhibit "A"
Property Description

Exhibit "B"
The Plat



REVISIONS

No.	Description	Date

Preliminary Plan
 Habberon Crossing
 1st Western Bank
 Kim Fugitt
 1200 Joyce Blvd.
 479-301-9165

NOT FOR CONSTRUCTION

REILLY & ASSOCIATES PA
 CIVIL ENGINEERS AND ARCHITECTS
 1000 W. 10TH STREET, SUITE 100
 PAVYVILLE, ARIZONA 85622
 PHONE: 480-225-1100
 FAX: 480-225-1101
 WWW.REILLYPA.COM



811
 Know what's below.
 Call before you dig.

PROPERTY INFORMATION

Item	Value
Parcel Area	77.22 acres
Tract Area	59488.84 sq. ft.
Lot Area	13.26 acres
Tract Area	103208.17 sq. ft.
Tract Area	462028.17 sq. ft.
Tract Area	77.22 acres

SITE INFORMATION

Item	Value
Total Parcel / General Area	209 acres
Tract Area	897 acres
Tract Area	32.4%
Tract Area	77.22%

BUILDING RETAINS

Item	Value
Front / Garage	30'
Side	15'
Back	15'

NOTICE TO CONTRACTORS
 THE CITY OF PAVYVILLE HAS ADOPTED THE FOLLOWING RESOLUTION TO APPROVE THE PRELIMINARY PLAN FOR THE HABBERON CROSSING PROJECT. THE CITY ENGINEER HAS REVIEWED THE PLAN AND FOUND IT TO BE IN ACCORDANCE WITH THE CITY ENGINEERING DEPARTMENT'S STANDARDS AND SPECIFICATIONS. THE CITY ENGINEER'S REVIEW IS LIMITED TO TECHNICAL MATTERS AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED IN THIS PLAN. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND FOR OBTAINING ALL NECESSARY INFORMATION FROM THE CITY ENGINEER'S OFFICE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE CITY ENGINEER'S OFFICE. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INFORMATION FROM THE CITY ENGINEER'S OFFICE.

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