

DRAFT

BILL OF ASSURANCE

OMAHA CENTER ADDITION

KNOW ALL MEN BY THESE PRESENTS:

That Michael Orosz & Sons Construction holds the title to all of the following described lands situated in Fulton County, Arkansas, to-wit:

**Omaha Center Addition
Block 2, Lots 1-10**

Omaha Center Addition, Block 2 to Cherokee Village, Arkansas, being a part of the W ½, SW ¼, Section 14, Township 19 North, Range 6 West. Also part of the E ½ SE ¼, Section 15, Township 19 North, Range 6 West of the 5th P.M. in Fulton County, Arkansas. More particularly described as follows: Beginning at the SW corner of Lot 33, Block 1, Arapaho Addition to Cherokee Village, Arkansas. Point of beginning being on the East right-of-way of Pottawattamie Road, thence along said right-of-way bearing of South 14° 29' 51" East 175.14 feet. Thence South 26° 53' 06" East 230.18 feet to the North right-of-way of Omaha Circle. Thence along said right-of-way North 62° 48' 07" East 22.00 feet. Thence North 27° 53' 32" East 82.05 feet. Thence 83° 00' 00" East 74.95 feet. Thence leaving said right-of-way North 49° 05' 08" East 431.014 feet. Thence North 63° 05' 38" East 63.819 feet. Thence North 81° 16' 31" East 206.501 feet. Thence North 57° 10' 51" East 323.876 feet. Thence North 86° 36' 01" East 74.388 feet. Thence South 48° 45' 51" East 81.311 feet. Thence South 13° 33' 14" East 95.629 feet. Thence South 05° 59' 06" West 114.159 feet. Thence South 16° 21' 54" West 122.301 feet. Thence South 13° 33' 14" East 95.629 feet. Thence South 31° 42' 05" West 68.521 feet. Thence South 48° 48' 51" West 97.072 feet. Thence South 57° 59' 41" West 59.488 feet. Thence South 67° 32' 12" West 112.921 feet. Thence South 56° 54' 30" West 112.488 feet. Thence South 49° 39' 06" West 230.00 feet to the East right-of-way of Omaha Circle. Thence along said right-of-way South 42° 48' 28" East 20.018 feet. Thence South 49° 39' 06" West 42.427 feet. Thence South 37° 07' 51" West 175.60 feet. Thence South 06° 08' 16" East 91.13 feet. Thence South 21° 09' 45" East 369.82 feet to the North right-of-way of Yamasee Road. Thence along said right-of-way North 68° 51' 40" East 129.95 feet. Thence 264.27 feet along the arc of a 413.92 foot radius curve to the left, said curve having a chord of North 50° 37' 47" East 259.80 feet. Thence North 32° 23' 42" East 247.30 feet. Thence North 53° 22' 20" East 536.96 feet. Thence leaving said right-of-way North 36° 37' 40" West 25.00 feet. Thence North 13° 31' 18" East 112.113 feet to a point 1.00 feet above spillway elevation of Omaha Lake. Thence along Omaha Lake shoreline at said elevation North 80° 45' 05" West 107.32 feet. Thence South 83° 32' 05" West 80.62 feet. Thence North 81° 43' 26" West 102.59 feet. Thence North 09° 53' 25" East 57.54 feet. Thence North 20° 36' 47" East 22.96 feet. Thence North 33° 18' 05" East 105.30 feet. Thence North 11° 17' 13" East 212.55 feet. Thence North 01° 15' 07" East 153.96 feet. Thence North 10° 17' 08" West 164.62 feet. Thence North 46° 30' 00" West 74.65 feet. Thence North 39° 50' 50" East 48.87 feet. Thence North 87° 16' 10" West 84.07 feet. Thence South 78° 09' 20" West 148.38 feet. Thence South 73° 00' 03" West 246.68 feet. Thence South 65° 44' 39" West 38.11 feet. Thence South 46° 06' 48" West 108.33 feet. Thence South 43° 17' 58" West 165.65 feet. Thence South 50° 43' 06" West 101.94 feet. Thence North 50° 42' 40" West 59.70 feet. Thence North 05° 48' 01" East 48.63 feet. Thence North 29° 27' 29" West 43.54 feet. Thence South 57° 02' 43" West 242.10 feet. Thence South 74° 37' 06" East 83.26 feet. Thence South 60° 36' 21" West 72.77 feet. Thence North 05° 04'

22" West 58.86 feet. Thence leaving Omaha Lake South 54° 49' 22" West 40.03 feet to the point of beginning. Containing 22.26 acres more or less.

Michael Orosz & Sons Construction has caused said lands to be surveyed and subdivided as an Addition. Said Addition has been named and shall henceforth be known and designated as Omaha Center Addition, City of Cherokee Village, Fulton County, Arkansas and it contains one block, numbered 2, with ten lots numbered one through ten. Michael Orosz & Sons Construction has caused said Addition to be platted, which plat reflects the location of said lots and the number and dimensions of the lots in said block; also the location, widths and the names of the streets and other vehicular ways. All streets and other vehicular ways are dedicated to the public unless otherwise indicated upon the plat aforesaid, or as otherwise indicated herein.

The plat of the Omaha Center Addition, City of Cherokee Village, Fulton County, Arkansas, is recorded in plat Book ____ at page _____ in the office of the Circuit Court Clerk and Ex-Officio Recorder in and for Fulton County, Arkansas, and is filed for record simultaneously with the filing for record of this Covenant. Said plat is by reference made a part of this Bill of Assurance and is likewise made a part of the plat aforesaid as fully as though written thereon word for word.

As a part of this Covenant, certain safeguards, restrictions, and provisions hereinafter referred to as "Subdivision Restrictions and Provisions" are hereby placed on the lots of said Addition.

SUBDIVISION RESTRICTIONS AND PROVISIONS

I. INTENT AND PURPOSES

It is the desire and intent of Michael Orosz & Sons Construction to place certain safeguards, restrictions and provisions upon all of the lots situated in said Addition for the use and benefit of the future owners of said property; therefore, in consideration of the premises and in consideration of the mutual agreements herein made and set forth, Michael Orosz and Sons Construction, its successors, assigns, and grantees, and for their successors in title, do hereby agree, subject to paragraph A, Section IV hereof, that all the lots in Omaha Center Addition, City of Cherokee Village, Fulton County, Arkansas, shall be, and they are hereby restricted as to their use in the manner and to the extent hereafter set forth, and likewise all provisions relative thereto as thereafter set forth shall fully apply as to all such lots.

All persons, firms, and corporations who now own, or who shall hereafter acquire any interest in any of the lots mentioned herein, or affected hereby, shall be bound by the restrictions and provisions herein set forth, or City Codes, whichever is more restrictive, with the same force and effect as though they had joined in the execution of this instrument. It being the intention of Michael Orosz and Sons Construction that all restrictions and provisions set forth herein shall be held to be covenants running with the land, binding upon all persons interested in said lots throughout the whole period of time for which these restrictions and provisions shall remain in effect.

II. PLANNING AND ZONING COMMISSION

- A. Michael Orosz and Sons Construction adopts contemporaneously with and by this Covenant the City of Cherokee Village Planning and Zoning Commission, hereinafter referred to as the "Commission," for the responsibility of maintaining values of the property lying within the Omaha Center Addition, and also, for the purpose of

enforcing the restrictions and provisions herein provided, and waiving the same in hardship cases, as well as passing and issuing additional orders, rules, restrictions and provisions in aid and furtherance of the purposes aforesaid.

- B. The Commission is composed of seven members appointed by the Mayor and approved by the City Council. The members of the Commission shall not be entitled to any compensation for services performed. At any time, the Mayor with approval of the City Council shall have the power to change the membership of the Commission.

III. SUBDIVISION RESTRICTIONS

A. Land Use:

All lots shown on said plats hereby are designated as a single family residential district and shall not be otherwise used. Lots one and ten can be subdivided, subject to Planning and Zoning Variance procedure.

B. Approval of Plans:

No building, dock, or other structure shall be erected, placed or altered on any lot until the construction plans and specifications and a topographical site plan showing the location of the proposed structure have been approved by the Commission as to the quality of workmanship and materials, structural design and appearance, harmony of external design with existing structures, and as to location with respect to property topography and finish grade elevation. Above applies to any dock adjacent to a lot.

C. Construction of Buildings:

All construction will be done in compliance with City Codes. Prior to beginning construction of a building, dock, or any other structure upon any lot herein, the owner shall furnish the Commission with satisfactory proof that builder's risk insurance, including Workers' Compensation Insurance, if applicable, will be in effect for the construction period. In any case no construction shall begin until a City Building Permit has been issued.

D. Completion of Building:

1. The exterior of any building erected on or moved on to any lot in this Addition shall be completed within six (6) months after construction has begun, and in accordance with the City of Cherokee Village Building Code. Completion of the exterior shall include underpinning, exterior siding, windows and doors, corner boards, molding, chimneys, roof rakes, roof overhangs, roof cornices, fascias, porches, steps as applicable, and shall include completion of any and all kinds of details of exterior construction or finish which in their absence shall change the appearance of the structure from that approved by the Commission.
2. The interior of any structure erected on or moved onto any lot in this Addition shall be completed within twelve (12) months after construction has begun, and in accordance with the City of Cherokee Village Building Code. The interior walls and ceilings of a standard nature, such as sheet rock, plaster, paneling, finished floors, ceiling tile, etc., shall be substantially completed. Completion of interior painting,

wallpapering and final finishing touches may be postponed. Electric wiring installed in any structure shall be in accordance with the standards required by the National Electrical Code, City Code, or local power company, whichever is more restrictive. Plumbing shall be in complete accordance with the requirements set up by the Arkansas State Health Department, City Code, or the Arkansas State Plumbing Code, whichever is more restrictive and shall be in accordance with the requirements set up by the Arkansas State Health Department.

E. Inspections:

All structures will be submitted to building inspections by the Cherokee Village Building Inspector and/or its representative. It will be the determination of the City Building Inspector as to the number of inspections required. In the event the completion dates and requirements in Item D of this Section are not met, the Commission shall have the right, but not the obligation, to hire a contractor to promptly complete the work in accordance with such requirements and to bill the owner for the amount expended plus 10% of such amount for administration. In the event that the owner does not pay said charges, the Commission shall have the right to file a lien against the property and proceed in law or equity to sell the property to obtain said charges. All money received over and above said charges and court cost shall be returned to the owner.

F. Area Limitations:

No residence shall be erected on any lot which shall have a ground floor space of less than 2000 sq. ft. exclusive of any portion thereof used for a garage or for an outside porch unless written approval is obtained from the Commission.

G. Re-Subdivision:

No lot as shown on said plat shall be re-subdivided into building plots; but a portion of a lot adjoining a lot may be used in connection with a lot and the total considered as a single building plot. However, no portion of a lot may be used as a building plot unless used in connection with an adjoining lot. Lot one (1) and Lot ten (10) may be excluded with approval of the Commission.

H. Setback Limitations:

1. No building shall be located on any lot nearer than 35 feet from the front lot line or nearer than 25 feet from any side street line unless shown otherwise on the plat.
2. No building shall be located nearer that 10 feet from any interior side lot line, or nearer than 25 feet from the rear property line unless shown otherwise on the plat.
3. In all events, setback lines as reflected upon the plat shall control.
4. For purposes of this covenant, roof overhangs, steps, stoops and other usual architectural projections shall not be considered as a part of the building and are specifically excepted.

H. Height Limitations:

No building constructed on any lot shall exceed two stories in height nor shall any portion of the building except chimneys and usual architectural projections be higher from the average grade than 28 feet.

J. Easement for Public Utilities:

The City of Cherokee Village and assigns hereby reserves all easements for installation and maintenance of utilities and drainage facilities as reflected upon the recorded plat and as herein provided, and by reason of such reservation shall have the right to install, or have installed, water mains, power lines, or any other utility or drainage facility within such easements without notification to the lot owner; however, all such facilities will be place within the easement wherever such installation will be most practical and least detrimental to the lot. Such easements as so reserved shall be assignable, perpetual, alienable and releasable on the part of The City of Cherokee Village, it's successors and assigns.

Where utility easements occur on the rear of a lot, the house sewer shall be located on that side of the house which faces the easement. Within easements as reflected upon the recorded plat or as herein provided , no structure, planting or other material shall be place or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels within the easements or obstruct or retard the flow of water through drainage channels within the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

In addition, The City of Cherokee Village, for itself and its successors and assigns hereby reserves and is given an assignable, perpetual, alienable and releasable easement privilege and right on, over, and under the hereinafter designated portions of the above described lands to erect, maintain, and use electric and telephone poles, wires, cables, and conduits, and water mains, drainage lines, drainage ditches or drainage structures, sewer and other suitable equipment and structures for drainage and sewerage collection and disposal purposes, or for the installation, maintenance, transmission, and use of electricity, telephone, gas, lighting, heating, water, drainage, sewerage, cable, and other conveniences or utilities on, over, and under the following property reflected upon said plat:

1. Streets and Other Vehicular Ways:

The City of Cherokee Village shall have the unrestricted sole right and power of alienating and releasing the privileges, easements, and rights referred to herein. The owners, other than Michael Orosz & Sons Constructions, of the lot or lots subject to the privileges, rights, and easements referred to herein, shall acquire no right, title, or interest in or to any poles, wires, cables, conduits, pipes, mains, lines, or other equipment or facilities placed on, over, or under the property which is subject to said privileges, rights, and easements. All such easements are and shall remain private easements and the sole and exclusive property of the City of Cherokee Village and its successors and assigns.

K. Fences:

Garden walls or fences may be constructed or erected on any lot except within 35 feet from the front property line, six inches inside of side line and except in the area outlined in Paragraph N of Section III; however, any fence or wall in excess of five (5) feet in height must be given specific written approval of the Commission prior to its construction. This restrictive covenant shall not be construed so as to in any way lessen or limit the effect or intent of the preceding Paragraph J which shall control this covenant in all cases of conflict. If it becomes necessary to partially or completely remove any such fence or wall in order to install and maintain utility or drainage facilities within any easements reserved herein, the cost of such removal and reconstruction, if any, shall be borne by the lot owner.

L. Sewage Disposal:

No building shall be maintained or erected except that the owners thereof shall install sewage disposal facilities located and constructed in accordance with requirements, standards, and recommendations of and approved by the Arkansas State Health Department.

M. Garbage and Refuse Disposal:

No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste incidental to the use of the property as herein provided shall not be kept except in covered sanitary containers and disposition if same shall be prompt. There shall be no burning of trash, garbage, or other waste material upon any lot.

N. Sight Distance at Intersection:

No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street property lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction from sight lines.

O. Nuisances:

No noxious or offensive activity shall be carried on upon any part of the above-described premises nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood or which may be or become offense by reason of color, design, or the emission of odor, liquid, gas, smoke, vibration, or noise or for any other reason.

P. Temporary Structures:

No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be constructed or placed on any lot without approval by the Commission, nor shall any such structures be used on any lot at any time as a residence either temporarily or permanently.

Q. Signs:

No sign of any kind shall be displayed to the public view on any lot or upon any building or other structure thereon except signs erected by the developer in connection with its sales program. All signs must be approved by the Commission.

R. Oil and Mining Operations:

No oil drilling, oil development operations, 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.

S. Livestock and Poultry:

No bee hives or the breeding or raising of any insects, reptiles, or animals and fowls of any kind shall be permitted on any lot except that dogs and cats and other household pets may be kept, provided that they are not kept, bred, or maintained so as to constitute an annoyance to the neighborhood. All pets are subject to City Codes that control animals.

T. Business Prohibited:

Except for the business of the Developer in furtherance of its sales program, the practice of any profession or the carrying on any commercial business of any kind is prohibited.

IV. GENERAL PROVISIONS

A. Term:

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless changes are required to meet regulations of any governing body.

B. Enforcement:

Enforcement shall be proceedings at law or in equity against any person or persons violating or attempting to violate any covenant which proceedings may be brought either to restrain violation or to recover damages.

C. Severability:

Invalidation of any of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force.

IN WITNESS WHEREOF, the said Michael Orosz & Sons Construction, has caused this instrument to be signed by its Vice President and its Assistant Secretary and its corporate seal to affixed this _____ day of _____, _____.

MICHAEL OROSZ & SONS CONSTRUCTION

Vice President

ATTEST:

Assistant Secretary

ACKNOWLEDGMENT

STATE OF ARKANSAS)

SS

COUNTY OF Fulton)

On this ___ day of _____, _____ before me, a Notary Public in and for said county and state, duly commissioned, qualified and acting, appeared in person the within named _____ and _____ to me personally well known, who stated that they were the Vice President and Assistant Secretary of the Michael Orosz & Sons Construction, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said company, and further stated and acknowledged that they had so signed, executed and delivered said foregoing instrument for the consideration, uses, and purposes therein mentioned and set forth.

SIGNED AND CERTIFIED COPY ON FILE AT CHEROKEE VILLAGE CITY HALL, 2 SANTEE DR., CHEROKEE VILLAGE, AR 72529. If there is a conflict between this copy and the official document, the official document always governs.